U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

SECTION 8 PROJECT-BASED VOUCHER PROGRAM HOUSING ASSISTANCE PAYMENTS CONTRACT

REHABILITATED HOUSING RIDER

1.1 Parties

This Rehabilitated Housing Rider ("Rider") is between:

_____("PHA") and

_____("owner").

1.2 Purpose

This Rider to the Housing Assistance Payments Contract ("HAP contract") governs development activity occurring during the term of the HAP contract. The contents of the HAP contract apply and are supplemented by the additional terms and conditions provided in this Rider during the period this Rider is in effect. The owner agrees to develop the HAP contract units in accordance with Exhibit B of this Rider and to comply with Housing Quality Standards ("HQS"), and the PHA agrees that, upon timely completion of such development activity in accordance with the terms of this Rider, this Rider will terminate and the HAP contract will remain in effect.

1.3 Contents of Rider

This Rider includes the following Exhibits:

EXHIBIT A: The PHA's written notice of proposal or project selection and the written response to the PHA by the owner or party that submitted the selected proposal or project accepting the terms and requirements stated in the notice. (Selection of proposal or project must have been in accordance with 24 CFR 983.51.)

EXHIBIT B: Description of development activity to be performed under this Rider, including:

- the rehabilitation work write-up and, where the PHA has determined necessary, specifications and plans;
- any requirements the PHA elects to establish in addition to HQS for design, architecture, or quality;
- a description of any required work item necessary to comply with the accessibility requirements of 24 CFR 983.153(e); and
- a description of any required work item if the requirement at 24 CFR 983.153(f) to install broadband infrastructure applies.

EXHIBIT C: Development status of each specific contract unit:

- a list of each unit that is available for occupancy by an assisted family at the time the unit is placed on the HAP contract which indicates for each unit whether the owner will undertake development activity in the unit after it is occupied by an assisted family (see 24 CFR 983.157(e)(5)(i)); and
- a list of each unit that is unavailable for occupancy at the time the unit is placed on the HAP contract (see 24 CFR 983.157(e)(5)(ii)).

1.4 Significant Dates

A. Date of Commencement of the Work: The date for commencement of work is not later than _____ calendar days after the effective date of the HAP contract.

B. Time for Completion of the Work: The date for completion of the work is not later than _____ calendar days after the effective date of the HAP contract. The deadline for completion of the work must be no more than five years from the date the HAP contract is effective.

C. Section 1.d of the HAP contract cannot provide for a multi-stage project which allows for completion of units under the HAP contract in stages commencing on different dates. (See 24 CFR 983.156(c).)

1.5 Timing of HAP Contract Execution

A. The requirements of section 1.e.1 of the HAP contract apply. Additionally, the PHA may execute the HAP contract with this Rider after all of the following requirements of 24 CFR 983.157(c) have been met:

1. The applicable requirement of 24 CFR 983.56(d) (environmental review) has been met;

2. If applicable, HUD or a housing credit agency approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements;

3. If applicable, the PHA has determined that development activity that has commenced (including development activity to correct HQS deficiencies to make a unit available for occupancy at the beginning of the HAP contract term) met applicable development requirements in accordance with 24 CFR 983.157(b);

4. In lieu of the requirement in section 8.b.1 of the HAP contract, the PHA has conducted an inspection of all units the owner proposes to make available for occupancy by an assisted family at the beginning of the HAP contract term and the PHA has determined that at least one of those proposed contract units, including items and components within the primary and secondary means of egress, common features, and systems equipment as described by 24 CFR 5.703(a)(2), fully complies with HQS. The PHA may make the determination of compliance with HQS regardless of whether the HQS-compliant unit is expected to undergo rehabilitation;

5. Occupants (if any) of proposed PBV units that were not inspected pursuant to paragraph A.4 of this section or that do not fully comply with HQS have moved and such units are vacant and identified as unavailable for occupancy in Exhibit C; and

6. Occupants (if any) of proposed PBV units who do not accept PBV assistance have moved and such units are vacant.

B. The PHA may decline to place proposed PBV units that do not meet the criteria in paragraphs A.5 or A.6 of this section on the HAP contract in order to execute the HAP contract before the units have been vacated. The PHA may add the units to the HAP contract once the units are vacant in accordance with section 1.7.A.1 of this Rider.

1.6 Schedule of Completion

A. Timely Performance of Work: The owner agrees to begin work no later than the date for commencement of work as stated in Section 1.4 of this Rider. In the event the work is not commenced, diligently continued and completed as required under this Rider, the PHA may terminate the HAP contract or take other appropriate action. The owner agrees to report promptly to the PHA the date work is commenced and furnish the PHA with progress reports as required by the PHA.

B. Time for Completion: All work must be completed no later than the end of the period stated in Section 1.4 of this Rider.

C. Delays: If there is a delay in the completion due to unforeseen factors beyond the owner's control as determined by the PHA, the PHA agrees to extend the time for completion for an appropriate period as determined by the PHA in accordance with HUD requirements. However, the PHA must not extend the time for completion beyond the five-year maximum (the deadline, with extensions, must be no more than five years from the date the HAP contract is effective).

D. Owner Breach: If the owner has not completed the development activity by the deadline specified in this Rider, which includes any extensions granted by the PHA, the PHA may grant an additional period for compliance to allow the owner more time to complete the development activity. The granting of any such period must be consistent with the PHA's Administrative Plan and must not exceed 180 days. If the owner has not completed the development activity following the period for compliance, the PHA must terminate the HAP contract. In addition to termination, the PHA may exercise any of its other rights or remedies under the HAP contract. At HUD's sole discretion, HUD may approve a PHA's request for an extension of the period for compliance beyond 180 days.

1.7 Rider Amendment and/or Changes in Work

A. Pursuant to 24 CFR 983.157(f), the PHA and owner may agree to amend the contents of this Rider (see 24 CFR 983.157(e)) by executing an addendum to this Rider, so long as such amendments are consistent with all requirements of 24 CFR part 983. However, the following requirements apply:

1. In the case of additions or substitutions of units, the provisions of 24 CFR 983.207 apply, except:

a. The PHA and owner must also amend this Rider to update Exhibit C. The PHA is not required to inspect the proposed substituted or added unit if it is vacant and will initially be categorized as unavailable for occupancy in Exhibit C;

b. The units to be added must not undergo repairs or renovation prior to amending the HAP contract to add the unit; and

c. Addition of a unit is prohibited while this Rider is in effect if such addition will increase the number of contract units from eight or fewer units to nine or more units.

2. The PHA and owner may only execute an addendum amending the items in Exhibit B affecting a unit prior to the PHA accepting the completed unit.

3. The owner must promptly notify the PHA of any change in the status for each unit listed in Exhibit C throughout the period of development activity, in the form and manner required by the PHA's Administrative Plan. The PHA and owner must amend Exhibit C to designate certain completed units as available for occupancy before completion of all development activity in the project, upon PHA acceptance of such completed units per 24 CFR 983.156(b)(3). Any unit that was inspected prior to HAP contract execution and that did not fully comply with HQS at that time must undergo development activity, followed by inspection as provided in 24 CFR 983.156(a), prior to being designated for occupancy in Exhibit C.

B. The owner must obtain prior PHA approval for any change from the work specified in Exhibit B which would alter the design, architecture, or quality of the rehabilitation. The PHA is not required to approve any changes requested by the owner. PHA approval of any change may be conditioned on reduction of the rent to owner at the amounts determined by PHA.

C. The PHA (or HUD in the case of insured or coinsured mortgages) may inspect the work during rehabilitation to ensure that work is proceeding on schedule, is being accomplished in accordance with the terms of this Rider, meets the level of material described in Exhibit B and meets typical levels of workmanship for the area.

1.8 Work Completion

A. Conformance with Exhibit B: The work must be completed in accordance with Exhibit B. The owner is solely responsible for completion of the work.

B. When the work is completed, the owner must provide the PHA or the independent entity (in the case of PHA-owned units) with the following:

1. A certification by the owner, in the form and manner prescribed by the PHA, that development activity under 24 CFR 983.152 has been completed, and that all such work was completed in accordance with HUD requirements; and

2. The following evidence of completion of work, in the form and manner required by the PHA's Administrative Plan:

The PHA must list the required evidence below:

_____
_____
_____
_____
_____.

1.9 Inspection and Acceptance by the PHA or Independent Entity (as applicable) of Completed Contract Units to Allow for Rider Termination

A. Completion of All Contract Units: This section 1.9 is only applicable after the PHA or independent entity (in the case of PHA-owned units) has received all required evidence of completion and the owner's certification that all work was completed in accordance with applicable requirements for all units, in order to terminate this Rider. At such time, the PHA or the independent entity (as applicable) must:

1. Review the evidence to determine whether the development activity was completed in accordance with applicable requirements; and

2. Inspect the completed units to determine whether they comply with HUD's HQS (see 24 CFR § 983.103(b)) and any additional design, architecture, or quality requirements specified by the PHA.

B. Non-Acceptance:

1. If the PHA or independent entity (in the case of PHA-owned units) determines the work has not been completed in accordance with applicable requirements, including non-compliance with HUD's HQS

and/or any additional design, architecture, or quality requirements specified by the PHA, the PHA or independent entity, as applicable, shall promptly notify the owner of this decision and the reasons for the non-acceptance. The parties must terminate the HAP contract if the reasons for non-acceptance are not remedied within the allowable time in accordance with section 1.6 of this Rider.

2. The owner's failure to comply with the development requirements of 24 CFR 983.153 constitutes a breach of the HAP contract. In the event that the owner's failure constituted only a de minimis error in the owner's compliance with the development requirements of 24 CFR 983.153, the PHA may decide to take an action other than termination of the HAP contract. In all other cases, the PHA must terminate the HAP contract, in addition to any other rights and remedies the PHA chooses to exercise under the HAP contract.

C. Acceptance: If the PHA or independent entity (in the case of PHA-owned units) determines the housing has been completed in accordance with the applicable requirements and the completed units meet HUD's HQS and any additional design, architecture, or quality requirements specified by the PHA, then the PHA must amend the HAP contract to terminate this Rider.

1.10 Acceptance where Defects or Deficiencies are Reported:

If defects or deficiencies exist, the PHA shall determine whether and to what extent the defects or deficiencies are correctable, whether the units will be accepted after correction of defects or deficiencies, and the requirements and procedures for such correction and acceptance. This provision does not apply to owner noncompliance with the development requirements of 24 CFR 983.153 (see section 1.9.B.2 of this Rider).

1.11 Occupancy of Units During Rehabilitation Period

A. The following requirements apply with respect to contract units that are available for occupancy at the time that the HAP contract is executed and during the period of development activity covered by this Rider:

1. The PHA must select families as provided in 24 CFR 983.251 for PBV assistance in a contract unit that is available for occupancy. Upon PHA acceptance of a completed unit (see 24 CFR 983.156(b)(3)) that is vacant, the PHA may either select a family from the waiting list for PBV assistance in the newly completed unit or offer to transfer a family assisted in a different contract unit to the newly completed unit as described in paragraph A.6.c of this section.

2. The PHA may refer a family for occupancy of a contract unit only if the unit fully complies with HQS as determined by the PHA inspection. The PHA must provide notice to the family in accordance with HUD requirements.
3. The PHA must conduct periodic and other inspections on occupied contract units in accordance with the requirements of section 8.b the HAP contract. However, if the periodic inspection occurs while this Rider is in effect and fewer than 20 percent of contract units in each building are designated as available for occupancy, the PHA is only required to inspect the units in that building that are designated as available for occupancy.
4. The PHA must vigorously enforce the owner's obligation to maintain contract units occupied by an assisted family in accordance with section 8.c of the HAP contract.
5. The owner may initiate development activity in a unit while it is occupied, subject to paragraph A.6 of this section, or when it becomes vacant (see section 1.7.A.3 of this Rider for requirements for changes to the development status of the unit).
6. When an owner will undertake development activity in a unit currently occupied by an assisted family, the requirements of this paragraph A.6 govern where the family will live during the rehabilitation. For purposes of this paragraph A.6, all references to the HQS applicable to the unit include items and components within the primary and secondary means of egress, common features, and systems equipment as described by 24 CFR 5.703(a)(2).
    a. The owner must complete the development activity without the family vacating the unit if the PHA reasonably expects that the owner can complete the development activity in a manner that:
        1. Does not result in life-threatening deficiencies;
        2. Does not result in any other deficiencies under the HQS that are not corrected within 30 days; and
        3. Is mutually agreeable to the owner and the family;
    b. If the conditions for in-place development activity in paragraph A.6.a of this section cannot be achieved, the owner must temporarily relocate the family to complete the development activity if:

1. The PHA reasonably expects that the owner can complete the relocation and development activity within a single calendar month (beginning no sooner than the first day of a month and ending no later than the last day of the same month); and
2. The family can be relocated to a location and in a manner mutually agreeable to the owner and the family; and

c. If the conditions for in-place development activity in paragraph A.6.a of this section and temporary relocation in paragraph A.6.b of this section cannot be achieved, the following protocol for lease termination and relocation applies:
   1. If there are contract units within the project that are designated as available for occupancy and that are vacant or expected to become vacant at the time of the planned lease termination, the PHA must refer the family to the owner for occupancy of an appropriate-size contract unit. If the family accepts the offered unit, the owner must provide the family with a reasonable time to move to the offered unit, must pay the family's reasonable moving expenses, must execute a lease with the family for the offered unit to be effective at the time of the family's move, and must terminate the lease for the family's original unit at the time of the family's move. The owner must terminate the family's lease if the family rejects the offered unit; however, the PHA must first offer the family a different unit or tenant-based assistance under paragraph A.6.c.2 of this section if needed as a reasonable accommodation under Section 504, the Fair Housing Act, or the Americans with Disabilities Act (ADA), for a household member who is a person with disabilities. The PHA must consider other family requests for a different unit or tenant-based assistance under paragraph A.6.c.2 of this section;
   2. If no other contract unit within the project is available for the family to lease during the period of development activity, or if needed to accommodate the family's need or request as provided in paragraph A.6.c.1 of this section,

the PHA must issue the family a tenant-based voucher. However, the PHA is not required to issue the family a voucher if the PHA has offered the family an alternative housing option (e.g., an assisted unit in another PBV project), and the family chooses to accept the alternative housing option instead of the voucher. The voucher issuance must be in accordance with HUD requirements. The PHA may be required to remove the family's unit from the PBV HAP contract and issue the family its voucher to move with tenant-based assistance and subsequently add a unit back to the PBV HAP contract at the earlier of the time that the PHA has an authorized voucher unit available or the time that the unit is ready for occupancy;

3. If the family moves from the project in order for the owner to undertake development activity in the family's unit, the PHA must offer the family the option to return to the project with PBV assistance, if the family is eligible for PBV assistance, following completion of development activity at the project and in accordance with HUD requirements; and
4. If the family moves from the project in order for the owner to undertake development activity in the family's unit, the PHA must not refer any family for occupancy of the unit until after rehabilitation of the unit and PHA acceptance of the completed unit (see 24 CFR 983.156(b)(3)).

1.12 Inapplicable HAP Contract Provisions

When this Rider is in effect, the following provisions in the HAP contract are inapplicable:

A. The remedies for violation of the housing quality standards of section 8.c of the HAP contract do not apply to units designated as unavailable for occupancy during the period of development activity in accordance with this Rider.

B. The owner may not undertake substantial improvement in accordance with section 8.e of the HAP contract when this Rider is in effect.

C. The requirements of section 9.b.1 of the HAP contract regarding vacancies do not apply to units listed as unavailable for occupancy in accordance with 24 CFR 983.157(e)(5).

1.13 Uniform Relocation Act

A. A displaced person must be provided relocation assistance at the levels described in and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and implementing regulations at 49 CFR part 24.

B. The cost of required relocation assistance may be paid with funds provided by the owner, or with local public funds, or with funds available from other sources. Payment of relocation assistance must be paid in accordance with HUD requirements.

C. The acquisition of real property for a project to be assisted under the program is subject to the URA and 49 CFR part 24, subpart B.

D. The PHA must require the owner to comply with the URA and 49 CFR part 24.

E. Where an Agreement is used, in computing a replacement housing payment to a residential tenant displaced as a direct result of privately undertaken rehabilitation of the real property, the term "initiation of negotiations" means the execution of the Agreement between the owner and the PHA, unless rehabilitation commenced prior to execution of an Agreement, in which case the "initiation of negotiations" is the point at which the rehabilitation commenced under 24 CFR 983.154(f). If no Agreement was used and rehabilitation commenced prior to execution of this Rider, the term "initiation of negotiations" means the point at which the rehabilitation commenced under 24 CFR 983.154(f). If no Agreement was used and rehabilitation will commence after execution of this Rider, the term "initiation of negotiations" means the execution of this Rider between the owner and the PHA.

1.14 Rights of HUD if PHA Defaults Under Rider

If HUD determines that the PHA has failed to comply with this Rider or has failed to take appropriate action to HUD's satisfaction or as directed by HUD, for enforcement

of the PHA's rights under this Rider, HUD may assume the PHA's rights and obligations under this Rider, and may perform the obligations and enforce the rights of the PHA under this Rider. HUD will, if it determines that the owner is not in default, pay Annual Contributions for the purpose of providing housing assistance payments with respect to the dwelling unit(s) under this Rider for the duration of the HAP contract.

1.15 PHA and Owner Relation to Third Parties

A. Selection and Performance of Contractor

1. The PHA has not assumed any responsibility or liability to the owner, or any other party for performance of any contractor, subcontractor or supplier, whether or not listed by the PHA as a qualified contractor or supplier under the program. The selection of a contractor, subcontractor or supplier is the sole responsibility of the owner and the PHA is not involved in any relationship between the owner and any contractor, subcontractor or supplier.

2. The owner must select a competent contractor to undertake rehabilitation or construction. The owner agrees to require from each prospective contractor a certification that neither the contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in contract by the Comptroller General or any federal Department or agency. The owner agrees not to award contracts to, otherwise engage in the service of, or fund any contractor that does not provide such certification.

B. Injury Resulting from Work under this Rider: The PHA has not assumed any responsibility for or liability to any person, including a worker or a resident of the unit undergoing work pursuant to this Rider, injured as a result of the work or as a result of any other action or failure to act by the owner, or any contractor, subcontractor or supplier.

1.16 Labor Standards Requirements — Check if Applicable

____ The following Labor Standards Requirements apply only when this Rider covers nine or more units.

A. HUD—Federal Labor Standards

1. The owner is responsible for inserting the entire following text of this section 1.16.A.1 of this Rider in all construction contracts and, if the

owner performs any rehabilitation work on the project, the owner must comply with all provisions of section 2.3. (Note: Sections 1.16.A.1(b) and (c) apply only when the amount of the prime contract exceeds $100,000.)

(a) (1) Minimum wages —

(i) Wage rates and fringe benefits. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5(d) and (e), the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph (a)(4) of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (a)(1)(iii) of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) Frequently recurring classifications.

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

(1) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(2) The classification is used in the area by the construction industry; and

(3) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(3) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) Conformance.

(A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is used in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(C) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The

Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(E) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iv) Fringe benefits not expressed as an hourly rate. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(v) Unfunded plans. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in 29 CFR 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(vi) Interest. In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

(2) Withholding —

(i) Withholding requirements. HUD or its designee may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, HUD or its designee may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(ii) Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

(A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A contractor's assignee(s);

(E) A contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

(3) Records and certified payrolls —

(i) Basic record requirements —

(A) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(B) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(C) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph (a)(1)(v) of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(D) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) Certified payroll requirements —

(A) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A

contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(B) Information required. The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph (a)(3)(i)(B) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

(C) Statement of Compliance. Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(1) That the certified payroll for the payroll period contains the information required to be provided under paragraph (a)(3)(ii) of this section, the appropriate information and basic records are being maintained under paragraph (a)(3)(i) of this section, and such information and records are correct and complete;

(2) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(D) Use of Optional Form WH-347. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(C) of this section.

(E) Signature. The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(F) Falsification. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(G) Length of certified payroll retention. The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iii) Contracts, subcontracts, and related documents. The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iv) Required disclosures and access —

(A) Required record disclosures and access to workers. The contractor or subcontractor must make the records required under paragraphs (a)(3)(i) through (iii) of this section, and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(B) Sanctions for non-compliance with records and worker access requirements. If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains

such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(C) Required information disclosures. Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

(4) Apprentices and equal employment opportunity —

(i) Apprentices —

(A) Rate of pay. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship

program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(B) Fringe benefits. Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(C) Apprenticeship ratio. The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(D) Reciprocity of ratios and wage rates. Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.(ii) Equal employment opportunity. The use of apprentices and journeyworkers under 29 CFR part 5 must be in conformity with the equal employment opportunity requirements of 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses contained in paragraphs (a)(1) through (11) of this section, along with the applicable wage determination(s) and such other clauses or contract modifications as HUD may by appropriate instructions require, and

a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

(iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

(11) Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR part 1, 3, or 5;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR part 1, 3, or 5;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR part 1, 3, or 5; or

(iv) Informing any other person about their rights under the DBA, Related Acts, or 29 CFR part 1, 3, or 5.

(b) Contract Work Hours and Safety Standards Act. The provisions of this paragraph (b) are applicable only where the amount of the prime contract exceeds $100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchpersons and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $33 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1).

(3) Withholding for unpaid wages and liquidated damages —

(i) Withholding process. HUD may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or

cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this paragraph (b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

(ii) Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

(A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A contractor's assignee(s);

(E) A contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

(4) Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs (b)(1) through (5) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

(5) Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in 29 CFR part 5;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or

(iv) Informing any other person about their rights under CWHSSA or 29 CFR part 5.

(c) Health and Safety. The provisions of this paragraph (c) are applicable only where the amount of the prime contract exceeds $100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as established under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The contractor shall comply with all regulations issue by the Secretary of Labor pursuant to Title 29 part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

B. Wage and Claims Adjustments

The owner shall be responsible for the correction of all violations under section 1.16.A.1, including violations committed by other contractors. In cases where there is evidence of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the owner or

other contractor or a failure by the owner or other contractor to submit payrolls and related reports, the owner shall be required to place an amount in escrow, as determined by HUD sufficient to pay persons employed on the work covered by the Rider the difference between the salaries or wages actually paid such employees for the total number of hours worked and the full amount of wages required under this Rider, as well as an amount determined by HUD to be sufficient to satisfy any liability of the owner or other contractor for liquidated damages pursuant to section 1.16.A.1. The amounts withheld may be disbursed by HUD for and on account of the owner or other contractor to the respective employees to whom they are due, and to the Federal Government in satisfaction of liquidated damages under section 1.16.A.1.

C. Evidence of Units Completion; Escrow

1. The owner shall evidence the completion of the unit(s) by furnishing the PHA, in addition to the requirements listed above, a certification of compliance with the provisions of sections 1.16.A.1 and 1.16.B of this Rider, and a certification that to the best of the owner's knowledge and belief there are no claims of underpayment to laborers or mechanics in alleged violation of these provisions of the Rider. In the event there are any such pending claims to the knowledge of the PHA or HUD, the owner will place a sufficient amount in escrow, as directed by the PHA or HUD, to assure such payments.

2. The escrows required under this section and section 1.16.B of shall be paid to HUD, as escrowee, or to an escrowee designated by HUD, and the conditions and manner of releasing such escrows shall be designated and approved by HUD.

1.17 Flood Insurance Requirements — Check if Applicable

____ The following flood insurance requirements apply if units are located in areas having special flood hazards and in which flood insurance is available under the National Flood Insurance Program.

If the project is located in an area that has been identified by the Federal Emergency Management Agency as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Program, the PHA agrees that: (1) the project will be covered, during the life of the property, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less; and (2) that it will advise any prospective purchaser or transferee of the property in writing of the

continuing statutory requirement to maintain such flood insurance during the life of the property.

EXECUTION OF THE RIDER

I/We, the undersigned, certify under penalty of perjury that the information provided above is true, accurate and correct. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 1014; 31 U.S.C. §§ 3729, 3802).

PUBLIC HOUSING AGENCY (PHA) **Name of PHA (Print)**
By:
Signature of authorized representative
Name and official title (Print)
Date
OWNER **Name of Owner (Print)**
By:
Signature of authorized representative
Name and official title (Print)
Date