OMB Control Number 2502–0587
form HUD–9644; exp. XX/XX/XXXX

Project-Based Section 8 Housing Assistance Payments Contract for Previous Mod Rehab Projects

This form is used for the renewal of Section 8 Housing Assistance Payments contracts as authorized under the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), 42 U.S.C. § 1437f note. The public reporting burden for completing this form is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, and gathering and maintaining the data needed. The information collected is required to obtain benefits. HUD may disclose certain information to Federal, State, or local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. Information collected will not otherwise be disclosed or released outside of HUD, except as required and permitted by law. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Preparation of HAP Contract

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Project-Based HAP Contract for Previous Mod Rehab Projects. The instructions are not part of the Project-Based HAP Contract for Previous Mod Rehab Projects.

Table of Contents

1. Contract Information 5

a. Project 5

b. Contents of contract 5

c. Contract exhibits 5

d. Effective date, term, and funding of HAP Contract 5

e. Parties to HAP Contract 6

2. Definitions 8

3. Purpose 9

4. Occupancy and Payment 9

a. Payment for occupied units 9

b. Occupancy by eligible families 9

c. Vacancy payment 9

d. Compensation for Damages, Unpaid Rent and Other Amounts Due Under the Lease 10

5. Housing Assistance Payments 10

a. HUD rent requirements 10

b. CA payment to Owner 10

6. Contract Rent 11

a. Initial Contract Rents 11

b. Contract Rent Adjustments 11

c. Owner compliance with HAP Contract 13

7. Owner Responsibility 13

8. Owner Certification 14

9. Condition of Units 15

a. Owner maintenance and operation 15

b. CA inspection 15

c. Violation of PCS 15

d. Maintenance and replacement — Owner's standard practice 15

10. Leasing Contract Units 15

11. Tenancy....16
a. Lease....16
b. Termination of tenancy....16
c. Family payment....16
d. Other Owner charges....16
e. Security deposit....16
12. Reserve for Replacements....17
13. Overcrowded and Underoccupied Units....17
14. Prohibition of Discrimination....17
15. Reduction of Contract Units....17
16. Owner Default and CA Remedies....18
a. Owner default....18
b. CA remedies....18
c. CA remedy is not waived....18
17. Owner Duty to Provide Information and Access Required by HUD or CA....19
a. Required information....19
b. CA and HUD access to Project....19
18. CA and Owner Relation to Third Parties....19
a. Injury because of Owner action or failure to act....19
b. Legal relationship....19
c. Exclusion of third-party claims....19
d. Owner's claims against HUD....19
19. Conflict of Interest....19
a. Prohibited interest....19
b. Definitions....20
c. Disclosure....20
d. HUD waiver....20
e. Interest of member of Congress....21
20. Exclusion from Federal Programs....21
a. Federal requirements....21
b. Disclosure....21

21. Transfer of the Contract, Property, and Ownership Entity....21
a. When consent is required....21
b. Transferee assumption of HAP Contract....22
c. Effect of consent to transfer....22
d. When transfer is prohibited....22
22. Owner Disclosure of Other Government Assistance....22
23. Owner Lobbying Certifications....23
24. Notices and Owner Certifications....23
25. HUD Requirements....23
26. Statutory Changes During Term....23
27. PHA Default....24
28. Entire Agreement....24

PART I

1. Contract Information[1]

a. Project

Section 8 Project Number: _____

FHA Project Number (if applicable): _____

Project Name: _____

Project Description:[2] _____

_____

_____

_____

b. Contents of contract

This is a housing assistance payments renewal contract (hereinafter "HAP Contract") between HUD and the Owner. The HAP Contract consists of Part 1, Part 2 and the contract exhibits listed in paragraph c.

c. Contract exhibits

The HAP Contract includes the following exhibits:

Exhibit A: Description of contract units. This exhibit specifies the number of contract units by unit size (number of bedrooms), applicable initial contract rents, and (if the HAP Contract is a staged contract) the effective date of each stage.[3]

Exhibit B: Services, maintenance and utilities to be provided by the owner.

Additional exhibits.[4] _____

_____

_____

_____

d. Effective date, term, and funding of HAP Contract

(1) Effective date

(a) If the HAP Contract is not a staged contract, the effective date for all contract units is: _____.

(b) If the HAP Contract is a staged contract, the effective date for each stage is set forth on Exhibit A attached hereto.

(2) Length of term and funding

(a) The term of the HAP Contract for all contract units shall end on _____.

(b) Execution of the HAP Contract is an obligation by HUD of $_____, an amount sufficient to provide housing assistance payments for approximately _____ months of the first

annual increment of the HAP Contract term.

(c) HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the remainder of the term to which it will be applied.

(d) Owner hereby acknowledges and agrees that it will accept any offer of renewal of the HAP Contract if the offer is in accordance with the terms and conditions specified in the Restructuring Commitment.

e. Parties to HAP Contract

Name of Contract Administrator: _____

Address of Contract Administrator: _____

Name of Owner: _____

Address of Owner: _____

EXECUTION OF HAP CONTRACT

Contract Administrator (CA)

By: _____
Signature of authorized representative

_____
Name and official title (print or type)

_____
Date (mm/dd/yyyy)

U.S. Department of Housing and Urban Development (HUD)

By:

_____
Signature of authorized representative

_____
Name and official title (print or type)

_____
Date (mm/dd/yyyy)

Owner

_____
Name of Owner (print or type)

By:

_____
Signature of authorized representative

_____
Name and title (print or type)

_____
Date (mm/dd/yyyy)

PART 2

2. Definitions

CA. Contract administrator. The agency that has entered into the HAP Contract with the Owner. The agency is HUD or a public housing agency as defined in the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

Contract rent. The total monthly rent payable to the Owner for a contract unit, including the tenant rent. Contract rent includes payment for any housing services, maintenance and utilities to be provided by the Owner in accordance with the HAP Contract.

Contract units. The housing units covered by this HAP Contract. The contract units are described in Exhibit A by unit size (number of bedrooms) and applicable initial contract rents.

Family. The persons selected by the Owner in accordance with HUD Requirements to reside in a contract unit with Section 8 assistance.

HAP Contract. This housing assistance payments contract between the CA and the Owner. The contract consists of Part 1, Part 2, and the contract exhibits (listed in paragraph 1.c of the HAP Contract).

HUD. U.S. Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the HAP Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law No. 106-74, October 20, 1999,113 Stat. 1109ff).

OCAF. An operating cost adjustment factor established by HUD.

PHA. A public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Physical condition standards (PCS). The HUD minimum physical condition standards for dwelling units occupied by families receiving Section 8 project-based assistance.

Principal or interested party. This term includes a management agent and other persons or entities participating in project management, and the officers and principal members, shareholders, investors, and other parties having a substantial interest in the HAP Contract, or in any proceeds or benefits arising from the HAP Contract.

Project. The housing designated in paragraph 1.a of the HAP Contract.

Restructuring Commitment. That certain Restructuring Commitment, entered into between the Owner and HUD, as part of the Mark-to-Market Process, setting forth the terms of the restructuring for the Project involving a section 8 housing assistance payments contract renewal with debt restructuring, and which incorporates a Restructuring Plan containing the information required by the Regulations at 24 C.F.R. 401.404.

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

Tenant rent. The portion of the contract rent payable by the family, as determined by the Owner in accordance with HUD requirements. The CA is not responsible for paying any part of the tenant rent, except with respect to vacancy and similar payments made under Section 4.c.

3. Purpose

a. The HAP Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), section 515(a) of the MAHRA, and pursuant to the terms of the Restructuring Commitment.

b. Previously, the CA and the Owner had entered into a housing assistance payments contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire or terminate prior to the beginning of the term of this HAP Contract.

c. The purpose of the HAP Contract is to provide housing assistance payments on behalf of eligible families who lease and occupy contract units that comply with the HUD PCS. Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families who lease contract units from the Owner in accordance with statutory requirements, and with all HUD regulations and other HUD requirements.

d. The HAP Contract is entered into pursuant to the terms of the Restructuring Commitment setting forth the terms of the restructuring for the Project involving a section 8 housing assistance payments contract renewal with debt restructuring.

e. The CA must make housing assistance payments to the Owner in accordance with the HAP Contract for contract units leased and occupied by eligible families during the HAP Contract term.

4. Occupancy and Payment

a. Payment for occupied units

During the term of the HAP Contract, the CA shall make housing assistance payments to the Owner for the months during which a contract unit is leased to and occupied by an eligible family as determined in accordance with HUD requirements. If an assisted family moves out of a contract unit, the Owner may keep the housing assistance payment for the month when the family moves out.

b. Occupancy by eligible families

During the contract term, the Owner shall lease all of the contract units to eligible families. Eligibility shall be determined in accordance with HUD requirements.

c. Vacancy payment

(1) The Owner shall receive housing assistance payments for so much of the month in which the family moves out of a contract unit as the contract unit remains vacant.

(2) If the unit remains vacant, the Owner may receive a housing assistance payment in the amount of 80 percent of the contract rent for a vacancy period not to exceed an additional month after the month when the family moves out. However, if the Owner collects any of the tenant rent for this month, the payment for the vacancy period must be reduced to an amount which, when added to the family's payments, does not exceed 80 percent of the contract rent.

(3) The Owner shall not receive any vacancy payment under this paragraph iii, unless the Owner:

(a) Immediately upon learning of the vacancy, has notified the CA of the vacancy, or prospective vacancy, and the reason for the vacancy;

(b) Takes all feasible actions to fill the vacancy, including contacting applicants on the Owner's waiting list, conducting appropriate outreach for eligible families, and advertising the availability of the unit;

(c) Has not rejected any eligible applicant, except for good cause acceptable to the CA; and

(d) Did not cause the vacancy by violating the lease, the HAP Contract, or any applicable law.

d. Compensation for Damages, Unpaid Rent and Other Amounts Due Under the Lease

If a family vacates a contract unit and owes rent, other amounts due under the lease, or has left damages in excess of normal wear and tear, the Owner may request reimbursement from HUD for such items so long as the Owner: (1) has collected a security deposit in an amount permitted by HUD; and (2) has completed the move-in and move out inspections required by HUD. The amount of reimbursement will be calculated in accordance with HUD regulations and administrative procedures.

5. Housing Assistance Payments

a. HUD rent requirements

Notwithstanding any other provisions of the HAP Contract, the contract rent may in no event exceed the amount authorized in accordance with HUD requirements.

b. CA payment to Owner

(1) Each month the CA must make a housing assistance payment to the Owner for a unit under lease to and occupied by an eligible family in accordance with the HAP Contract.

(2) The monthly housing assistance payment to the Owner for a contract unit is equal to the amount by which the contract rent exceeds the tenant rent.

(3) Payment of the tenant rent is the responsibility of the family. The CA is not responsible for paying any part of the tenant rent, or for paying any other claim by the Owner against a family, except with respect to vacancy and similar payments made under Section 4.c. The CA is only responsible for making housing assistance payments to the Owner on behalf of a family in accordance with the HAP Contract.

(4) The Owner will be paid the housing assistance payment under the HAP Contract on or about the first day of the month for which payment is due, unless the Owner and the CA agree on a later date.

(5) The Owner will notify the CA promptly of any change of circumstances that would affect the amount of the monthly housing assistance payment, and will return any payment that does not conform to the changed circumstances.

6. Contract Rent

a. Initial Contract Rents

At the beginning of the HAP Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A, which is attached to and, by this reference, is hereby made a part of the HAP Contract.

b. Contract Rent Adjustments

(1) OCAF

During the term of the HAP Contract the Contract Administrator shall annually, on the anniversary date of the HAP Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by using an OCAF.

(2) Procedure for Rent Adjustments During HAP Contract Term

(a) To adjust contract rents during the term of the HAP Contract, the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.

(b) The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.

(c) If this box is checked ☐, the initial contract rent, as stated in Exhibit A, constitutes an exception rent based on the actual and projected costs of operating the Project, as provided under section 514(g)(3) of MAHRA. Actual market rents are:

1br: _____

2br: _____

3br: _____

4br: _____

Should the Project anytime during the term of the Renewal Contract receive other government assistance, including but not limited to any loan, grant, credit, tax benefit, or any other form of direct or indirect assistance such as tax credits under Federal, State or local law, the Owner shall provide HUD with written notice, no more than 30 days following receipt of notification from the governmental authority issuing the assistance that such assistance has been or will be awarded. The written notice will identify the type and amount of the assistance awarded, the government entity providing such assistance, and the date of the award. HUD will review the underwriting projections resulting from the receipt of other government assistance, and if HUD determines that Project operating expenses, debt service, and/or required replacement reserve contributions will decrease as a result of the Project's receipt of other government assistance, HUD may adjust the contract rents downward to the greatest of the following:

- Actual market rents as noted above, adjusted upwards using the appropriate OCAF adjustment factor, compounded annually from the origination date of the renewal contract, per HUD guidelines;
- Revised exception rent after applying the other government assistance, which is determined to decrease operating expenses, debt service, and/or required replacement reserve contribution; and
- Market rents that reflect improvements to the Project (as improved rents) resulting from the application of the additional government assistance, not to exceed the contract rent then in effect. The owner must submit to HUD a rent comparability study (RCS) prepared (at the owner's expense) in accordance with HUD requirements. HUD will have sole discretion to review and adjust the rents provided in the RCS to eliminate upward adjustments attributable to improvements that exceed the M2M Program's non-luxury standard. The rent comparability study must be submitted to

HUD along with the notification of the award of the other governmental assistance.

If the additional government assistance is provided in conjunction with a transaction requiring prior HUD approval, such as, an assumption/subordination of Mark-to-Market debt, a TPA, or the approval of a new FHA insured first mortgage, the owner must notify the HUD official approving that transaction of the requirements of this Section. No additional notification of HUD or the Section 8 Contract Administrator staff will be required.

If new secured debt and/or tax credit equity is involved, the owner shall submit pro-forma estimates of the operating expenses, debt service, and replacement reserves that will be required after the application of the additional government assistance. These estimates will be reviewed by HUD in its process of determining a possible contract rent adjustment.

(d) Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the HAP Contract.

(3) No other adjustments

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the HAP Contract. Special adjustments shall not be granted.

c. Owner compliance with HAP Contract

The CA shall not approve, and the Owner shall not receive, any increase of contract rent for any contract unit which does not comply with the PCS, and/or where the Owner has not complied with the terms of the assisted lease.

7. Owner Responsibility

a. The Owner is responsible for:

(1) Performing all management and rental functions for the contract units.

(2) Selecting tenants.

(3) Determining tenant eligibility.

(4) Performing an initial examination, interim examinations, and annual reexaminations of family income.

(5) Calculating amount of the tenant rent and the housing assistance payment in accordance with the HAP Contract and HUD requirements.

(6) Entering a lease with each assisted tenant.

(7) Enforcing tenant obligations under the lease.

(8) Paying for utilities and housing services (unless paid by the tenant in accordance with the HAP Contract).

(9) Collecting from the tenant:

(a) Any security deposit.

(b) The tenant rent.

(c) Any charge for unit damage by the family.

(10) Paying the family any applicable utility reimbursement for tenant-paid utilities (where the amount of the utility allowance exceeds the amount of the tenant rent).

(11) Submitting monthly requests for payment in the form and manner required by HUD and the CA.

(12) Abiding by all terms and conditions of the Restructuring Commitment.

b. The Owner shall perform all Owner responsibilities in accordance with HUD requirements.

8. Owner Certification

The Owner certifies that at all times during the term of the HAP Contract:

a. All contract units are in good and tenantable condition. The Owner will maintain the Project and all contract units in accordance with the PCS.

b. The Owner is providing all the services, maintenance and utilities as agreed to under the HAP Contract and the leases with assisted families.

c. Each contract unit for which the Owner is receiving housing assistance payments is leased to an eligible family, and the lease is in accordance with the HAP Contract and HUD requirements.

d. To the best of the Owner's knowledge, the contract unit is leased to and occupied by an eligible Family and is used solely for residence by the Family and as the Family's principal place of residence.

e. The Owner (including a principal or other interested party) is not the parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit.

f. The amount of the housing assistance payment is the correct amount due under the HAP Contract.

g. Except for the housing assistance payment and the tenant rent as provided under the HAP Contract, the Owner has not received and will not receive any payments or other consideration (from the family, the CA, HUD, or any other public or private source) for rental of the contract unit.

h. The family does not own, or have any interest in the contract unit. If the Owner is a cooperative, the family may be a member of the cooperative.

i. Owner has complied and will comply with all Owner's obligations under the Restructuring Commitment.

9. Condition of Units

a. Owner maintenance and operation

(1) The Owner must maintain and operate the contract units and Project to provide decent, safe and sanitary housing in accordance with the PCS, including timely performance of ordinary and extraordinary maintenance.

(2) The Owner must provide all the services, maintenance and utilities set forth in Exhibit B, and in the lease with each assisted family.

b. CA inspection

The CA may inspect the contract units and the Project annually, and any time the CA deems necessary to assure that the contract units and Project are in accordance with the PCS, and that the Owner is providing the maintenance, utilities, and other services in accordance with the leases and the HAP Contract. The CA shall give the Owner reasonable notice of any and all such inspections.

c. Violation of PCS

(1) If the CA determines that a contract unit is not in accordance with the PCS, the CA may exercise any of its remedies under the HAP Contract. Such remedies include termination, and suspension or reduction of housing assistance payments. The CA may exercise any such contractual remedy respecting a contract unit even if the family continues to occupy the unit.

(2) The CA shall not make any housing assistance payment for a dwelling unit that fails to meet the PCS, unless the Owner corrects the defect within the period specified by the CA and the CA verifies the correction. If a defect is life threatening, the Owner must correct the defect within no more than 24 hours. For other defects, the Owner must correct the defect within no more than 30 calendar days (or any CA-approved extension).

d. Maintenance and replacement — Owner's standard practice

Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the Owner.

10. Leasing Contract Units

a. During the term of the HAP Contract, the Owner must lease all contract units to eligible families.

b. The Owner must determine family eligibility in accordance with HUD requirements.

c. The contract unit leased to each family must be appropriate for the size of the family as determined in accordance with HUD requirements.

d. The Owner is responsible for screening and selecting tenants.

11. Tenancy

a. Lease

The lease between the Owner and each assisted family must be in accordance with HUD requirements. The lease must include word-for-word all provisions required by HUD.

b. Termination of tenancy

The Owner may terminate a tenancy only in accordance with the lease and HUD requirements.

c. Family payment

(1) The portion of the contract rent payable by the family will be determined by the Owner in accordance with HUD requirements. The amount of the tenant rent is subject to change during the term of the HAP Contract.

(2) The amount of the tenant rent as determined by the Owner in accordance with HUD requirements is the maximum amount the Owner may charge the family for rent of a contract unit, including all housing services, maintenance and utilities to be provided by the Owner in accordance with the HAP Contract and the lease.

(3) The Owner may not demand or accept any rent payment from the tenant in excess of the tenant rent. The Owner must immediately return any excess rent payment to the tenant.

(4) The family is not responsible for payment of the portion of the contract rent covered by the housing assistance payment under the HAP Contract. The Owner may not terminate the tenancy of an assisted family for nonpayment of the housing assistance payment where such nonpayment is the result of failure by the Owner to fulfill its obligations under the HAP Contract.

d. Other Owner charges

The Owner may not charge the tenant or family members extra amounts for items set forth in Exhibit B.

e. Security deposit

(1) The Owner may collect a security deposit from the family.

(2) The Owner must comply with HUD and CA requirements, which may change from time to time, regarding security deposits from a tenant.

(3) When the family moves out of the contract unit, the Owner, subject to State and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit or other amounts which the family owes under the lease. The Owner must give the family a written list of all items charged against the security deposit and the amount of each item.

After deducting the amount used as reimbursement to the Owner, the Owner must promptly refund the full amount of the balance to the family.

(4) If the security deposit is not sufficient to cover amounts the family owes under the lease, the Owner may seek to collect the balance from the tenant.

12. Reserve for Replacements

Intentionally deleted.

13. Overcrowded and Underoccupied Units

If a contract unit is not decent, safe and sanitary because of an increase in the family size which causes the unit to be overcrowded, or a contract unit is larger than appropriate for the size of the family in occupancy, the Owner must offer the family a suitable unit as soon as one becomes vacant and ready for occupancy, and the Owner must require the family to move.

14. Prohibition of Discrimination

a. The Owner may not refuse to lease contract units to, or otherwise discriminate against any person or family in leasing of a contract unit, because of race, color, creed, religion, sex (including sexual orientation and gender identity), national origin, disability or familial status (i.e., because the family includes children).

b. The Owner must comply with all applicable Federal requirements, including but not limited to the following: The Fair Housing Act (42 U.S.C. 3610 - 3619) and implementing regulations at 24 C.F.R. parts 100, et seq.; Executive Orders 11063, 12259, and 12892 (Equal Opportunity in Housing) and implementing regulations at 24 C.F.R. part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d - 2000d-4) (prohibition of discrimination in Federally-assisted programs) and implementing regulations at 24 C.F.R. part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101 - 6107) and implementing regulations at 24 C.F.R. part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (prohibition of discrimination because of disability) and implementing regulations at 24 C.F.R. part 8; title II of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.) (prohibition of employment discrimination because of disability) and the fair housing advertising poster guidelines at 24 C.F.R. part 110.

c. The CA and the Owner must cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and all related rules and regulations.

15. Reduction of Contract Units

If the Owner fails for a continuous period of six months to have at least 90 percent of the assisted units leased or available for leasing to eligible families, the contract administrator may, on thirty calendar days notice to the Owner, reduce the number of contract units to not less than the number of units actually under lease to eligible families at the day of such notice, plus 10 percent (rounded up).

16. Owner Default and CA Remedies

a. Owner default

Any of the following is a default by the Owner under the HAP Contract:

(1) The Owner has failed to comply with any obligation under the HAP Contract, including the Owner's obligations to maintain all contract units in accordance with the PCS.

(2) The Owner has violated any obligation under any other housing assistance payments contract under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(3) The Owner has committed any fraud or made any false statement to the CA or HUD in connection with the HAP Contract.

(4) The Owner has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing assistance program.

(5) If the property where the contract units are located is subject to a lien or security interest securing a HUD loan or a mortgage insured by HUD:

(a) The Owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement, or

(b) The Owner has committed fraud, bribery or any other corrupt or criminal act in connection with the HUD loan or HUD-insured mortgage.

(6) If the Owner has engaged in any drug-related criminal activity or any violent criminal activity.

(7) The Owner has violated any obligation under the Restructuring Commitment.

b. CA remedies

(1) If the CA determines that a breach has occurred, the CA may exercise any of its rights or remedies under the HAP Contract.

(2) The CA must notify the Owner in writing of such determination. The notice by the CA to the Owner may require the Owner to take corrective action (as verified by the CA) by a time prescribed in the notice.

(3) The CA's rights and remedies under the HAP Contract include recovery of overpayments, termination or reduction of housing assistance payments, and termination of the HAP Contract.

c. CA remedy is not waived

The CA's exercise or non-exercise of any remedy for Owner breach of the HAP Contract is not a waiver of the right to exercise that remedy or any other right or remedy at any time.

17. Owner Duty to Provide Information and Access Required by HUD or CA

a. Required information

The Owner must prepare and furnish any information pertinent to the HAP Contract as may reasonably be required from time to time by the CA or HUD. The Owner shall furnish such information in the form and manner required by the CA or HUD.

b. CA and HUD access to Project

The Owner must permit the CA or HUD or any of their authorized representatives to have access to the Project during normal business hours, and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner to the extent necessary to determine compliance with the HAP Contract, including the verification of information pertinent to the housing assistance payments or the HAP Contract.

18. CA and Owner Relation to Third Parties

a. Injury because of Owner action or failure to act

The CA has no responsibility for or liability to any person injured as a result of the Owner's action or failure to act in connection with the implementation of the HAP Contract, or as a result of any other action or failure to act by the Owner.

b. Legal relationship

The Owner is not the agent of the CA. The HAP Contract does not create or affect any relationship between the CA and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with the implementation of the HAP Contract.

c. Exclusion of third-party claims

Nothing in the HAP Contract shall be construed as creating any right of a family or other third party (other than HUD) to enforce any provision of the HAP Contract, or to assert any claim against HUD, the CA or the Owner under the HAP Contract.

d. Owner's claims against HUD

If the contract administrator is a PHA acting as contract administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the contract administrator is not the agent of HUD and the HAP Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the contract administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

19. Conflict of Interest

a. Prohibited interest

(1) No covered individual or entity may have any direct or indirect interest in the HAP Contract.

(2) Direct or indirect interest includes the interest of an immediate family member.

b. Definitions

(1) "Immediate family member" means the spouse, parent, child, grandparent, grandchild, sister, or brother of any covered individual.

(2) "Covered individual or entity" means an individual or entity that is a member of any of the following classes:

(a) A member, officer or director of the CA, or other CA official with administrative functions or responsibility concerning contract administration under the Annual Contributions Contract ("ACC") between HUD and the CA.

(b) If the CA is an instrumentality of a governmental body:

(i) A member, officer or director of such governmental body.

(ii) A member, officer or director of any entity that holds a direct or indirect interest in the instrumentality entity.

(c) An employee of the CA.

(d) A CA contractor, subcontractor or agent with administrative functions or responsibility concerning contract administration under the ACC, or a principal or other interested party of such contractor, subcontractor or agent.

(e) An individual who has administrative functions or responsibility concerning contract administration under the ACC, including an employee of a CA contractor, subcontractor or agent.

(f) A public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities concerning contract administration under the ACC.

c. Disclosure

(1) A individual or entity with a prohibited interested under section 19 must disclose his, her or its interest or prospective interest in the HAP Contract, or any other contract, subcontract or other arrangement in connection with contract administration under the ACC to the CA and HUD.

(2) The Owner certifies that it has fully disclosed to the CA and HUD any interest that would be a violation of the conflict of interest requirements (paragraph 19 of the HAP Contract), and that it will fully and promptly update such disclosures.

d. HUD waiver

(1) HUD may waive the conflict of interest requirements for good cause.

(2) Any covered individual or entity for whom a waiver is granted may not execute any contract administration functions or responsibility concerning

a HAP Contract under which such individual is or may be assisted, or with respect to a HAP Contract in which such individual or entity is a party or has any interest.

e. Interest of member of Congress

No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of the HAP Contract or to any benefits which may arise from it.

20. Exclusion from Federal Programs

a. Federal requirements

The Owner must comply with and is subject to requirements of 24 C.F.R. Part 24, concerning debarment, suspension, and limited denial of participation.

b. Disclosure

The Owner certifies that:

(1) The Owner has disclosed to the CA the identity of the Owner and any principal or interested party.

(2) Neither the Owner nor any principal or interested party is listed on the U.S. General Services Administration list of parties excluded from Federal procurement and nonprocurement programs; and none of such parties are debarred, suspended or subject to a limited denial of participation under 24 C.F.R. part 24.

21. Transfer of the Contract, Property, and Ownership Entity

a. When consent is required

(1) The Owner agrees that the HAP Contract shall not be transferred without the advance written consent of the CA in accordance with HUD requirements.

(2) The Owner agrees that the Project may not be transferred without the advance written consent of HUD.

(3) The Owner agrees that no beneficial rights in the Owner itself shall be sold, transferred or conveyed without the advance written consent of HUD.

(4) “Transfer” or “transferred” includes:

(a) Any sale or assignment or other transfer of ownership, in any form, of the HAP Contract or the property;

(b) The transfer of any right to receive housing assistance payments that may be payable pursuant to the HAP Contract;

(c) The creation of a security interest in the HAP Contract or the property;

(d) Foreclosure or other execution on a security interest; or

(e) A creditor’s lien, or transfer in bankruptcy.

(5) If the Owner is a corporation, partnership, limited liability company, trust or joint venture, the Owner is not required to obtain advance consent of HUD pursuant to Section 21.a.3) for conveyance, assignment or transfer of less then a substantial interest in such Owner. For purposes of this section, the term "substantial interest" means (i) the interest of any general partner, or any limited partner or any non-managing member having a 25 percent or more interest in the Owner; and (ii) any ownership interest of any stockholder having a 10 percent or greater interest in the Owner. Further, HUD consent is not required for the transfer of any non-managing member interest in any limited partners of the Owner or any interest either as a member or a manager in any limited liability company which is a non-managing member of a limited partner of the Owner.

b. Transferee assumption of HAP Contract

No transferee (including the holder of a security interest, the security holder's transferee or successor in interest, or the transferee upon exercise of a security interest) shall have any right to receive any payment of housing assistance payments pursuant to the HAP Contract, or to exercise any rights or remedies under the HAP Contract, unless the CA has consented in advance, in writing to such transfer, and the transferee has agreed in writing, in a form acceptable to the CA in accordance with HUD requirements, to assume the obligations of the Owner under the HAP Contract, and to comply with all the terms of the HAP Contract.

c. Effect of consent to transfer

(1) The creation or transfer of any security interest in the HAP Contract is limited to amounts payable under the HAP Contract in accordance with the terms of the HAP Contract.

(2) The CA's consent to transfer of the HAP Contract does not change the terms of the HAP Contract in any way, and does not change the rights or obligations of the CA or the Owner under the HAP Contract.

(3) The CA's consent to transfer of the HAP Contract to any transferee does not constitute consent to any further transfers of the HAP Contract, including further transfers to any successors or assigns of an approved transferee.

d. When transfer is prohibited

The CA will not consent to the transfer if any transferee, or any principal or interested party is debarred, suspended or subject to a limited denial of participation under 24 C.F.R. part 24, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

22. Owner Disclosure of Other Government Assistance

The Owner must disclose to the CA in accordance with HUD requirements information regarding any related assistance from the Federal Government, a State, or a unit of

general local government, or any agency or instrumentality thereof that is made available or is expected to be made available with respect to the contract units. Such related assistance includes, but is not limited to, any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

23. Owner Lobbying Certifications

a. The Owner certifies, to the best of Owner's knowledge and belief, that:

(1) No Federally appropriated funds have been paid or will be paid, by or on behalf of the Owner, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of the HAP Contract, or the extension, continuation, renewal, amendment, or modification of the HAP Contract.

(2) Owner has complied and will comply with all applicable federal lobbying reporting standards.

b. This certification by the Owner is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

24. Notices and Owner Certifications

a. Any notice by the Contract Administrator or the Owner to the other party pursuant to the HAP Contract shall be given in writing.

b. A party shall give notice at the other party's address specified in section 1 of the HAP Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

c. Any certification or warranty by the Owner pursuant to the HAP Contract shall be deemed a material representation of fact upon which reliance was placed when this transaction was made or entered into.

25. HUD Requirements

The HAP Contract shall be construed and administered in accordance with all statutory requirements, the Restructuring Commitment, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the HAP Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the HAP Contract, including the provisions of section 6 (contract rent), shall not be applicable.

26. Statutory Changes During Term

If any statutory change during the term of the HAP Contract is inconsistent with section 6 of the HAP Contract, and if HUD determines, and so notifies the CA and the Owner, that the CA is unable to carry out the provisions of section 6 because of such statutory

change, then the CA or the Owner may terminate the HAP Contract upon notice to the other party.

27. PHA Default

a. This section of the HAP Contract applies if the CA is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the HAP Contract to a PHA Contract Administrator, for the purpose of PHA administration of the HAP Contract.

b. If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as CA, to make housing assistance payments to the Owner in accordance with the provisions of the HAP Contract, and that the Owner is not in default of its obligations under the HAP Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the HAP Contract.

28. Entire Agreement

The HAP Contract, including the exhibits, is the entire agreement between the CA and the Owner. No changes in the HAP Contract may be made except in writing signed by both the Owner and the CA.

EXHIBIT A

Identification of Units by Size, Applicable Contract Rents, and Effective Date of Each Stage

Number of Contract Units	Number of Bedrooms	Contract Rent

EXHIBIT B

Services, maintenance, and utilities to be provided by the owner

INSTRUCTIONS

PREPARATION OF HAP CONTRACT.

The HAP Contract consists of Part 1, Part 2, and the contract exhibits. The exhibits are listed in paragraph 1.b of Part 1.

Part 1 contains section 1 of the HAP Contract.

Part 2 contains sections 2 to 25 of the HAP Contract.

Part 1 includes fill-in items and a list of the contract exhibits. Fill out part 1 to prepare the HAP Contract for execution.

The form of HAP Contract must be used word-for-word and may not be modified.

CONTRACT EXECUTION

Part 1 is signed by the CA, HUD, and the Owner of the housing.

[1] Enter all contract information.

[2] Enter a description of the housing that will be covered by the HAP Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designated the covered Project. If necessary, attach an exhibit with a site plan, legal description, or other descriptive information. Enter a reference to the attached exhibit.

[3] If required by the CA, the HAP contract may include additional information describing the physical condition, location, and plans of the contract units.

[4] List any additional exhibits.