OMB Control Number 2502–0587
HUD Form –9649b; exp. xx/xx/xxxx

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF MULTIFAMILY HOUSING PROGRAMS

PROJECT-BASED SECTION 8 CONTRACT ADMINISTRATION

CONSENT TO ASSIGNMENT OF HAP CONTRACT AS SECURITY FOR FINANCING WHEN HFA IS BOTH LENDER AND CONTRACT ADMINISTRATOR

This form is used when the Owner of a project wishes to grant a security interest in a Housing Assistance Payments Contract to a Housing Finance Agency as security for a loan made by the Housing Finance Agency to the Owner with respect to the project. 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.

1. Identification HAP Contract

Section 8 HAP Contract Number: _____

Project Name: _____

Project Location: _____

_____

2. Names

_____
Contract administrator

_____
Contract administrator address

_____
Owner

_____
Owner address

_____
Lender (Housing Finance Agency)

_____
Lender address

3. Definitions

ACC. Annual Contributions Contract.

Assignment as Security. The creation of a security interest in the owner's interest pursuant to the HAP Contract, and a transfer of such security interest to a successor secured party.

Contract Administrator. HUD or a PHA acting as contract administrator under an ACC with HUD.

Full Assignment. An assignment of the HAP contract other than an assignment as security. "Full Assignment" includes a sale, conveyance or other transfer of the HAP Contract, voluntary or involuntary, to a successor in interest.

HAP Contract. The Housing Assistance Payments Contract for units in the project. The HAP Contract was entered between the owner and the contract administrator pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

PHA. Public Housing Agency.

Project. The project identified in section I of the consent to assignment.

Secured Party. A party that holds a security interest in the owner's interest pursuant to the HAP contract, including the lender, and successors to the lender's security interest.

Successor. The term "successor" includes an assignee.

4. Background

Pursuant to the terms of the HAP Contract, the HAP Contract (including any interest in the HAP Contract or any payments under the HAP Contract) may not be assigned without the prior written consent of HUD.

The owner has advised the contract administrator that the owner wants to grant the lender a security interest in the HAP Contract, as security for a loan by the lender to the owner with respect to the project.

5. Consent to Assignment as Security

By execution of this consent to assignment as security, HUD consents to the assignment as security of the HAP Contract by the owner to the lender as security for a loan by the lender to the owner with respect to the project.

HUD consents to transfer of the lender's security interest to successor secured parties.

6. Effect of Consent to Assignment

Issuance of the consent to assignment does not signify that HUD or the contract administrator has reviewed, approved, or agreed to the terms of any financing or refinancing; to any term of the loan documents; or to the terms of any assignment of the HAP contract by the owner to the lender as security for the loan, or by the lender to any transferee of the loan.

The consent to assignment of the HAP Contract as security for the loan does not change the terms of the HAP Contract in any way, and does not change the rights or obligations of HUD, the contract administrator, or the owner under the HAP Contract.

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.

7. Exercise of Security Interest: Assignee Assumption of HAP Contract Obligations

Notwithstanding HUD's grant of consent to assignment by the owner of a security interest in the HAP Contract to the lender as security for the loan, and to further transfer of such security interest to successor secured parties, HUD's execution of this consent

does not constitute consent to a full assignment of the HAP contract to any entity, including the lender or any successor secured party.

A secured party may not exercise any rights or remedies against the contract administrator or HUD under the HAP Contract, and shall not have any right to receive housing assistance payments that may be payable to the owner under the HAP Contract, until and unless:

- HUD has approved the secured party as successor to the owner pursuant to the HAP contract, and

- The secured party seeking to exercise such rights or remedies, or to receive such payments, has executed and delivered, in a form acceptable to HUD in accordance with HUD requirements, an agreement by the assignee to comply with all the terms of the HAP Contract, and to assume all obligations of the owner under the HAP Contract.

8. Payment to Secured Party

When a secured party notifies the contract administrator, in writing, that housing assistance payments payable pursuant to the HAP Contract should be directed to the secured party (in accordance with paragraph 7 above), the contract administrator may make such payments to the secured party instead of the owner. In making such payments, the contract administrator is not required to consider or make any inquiry as to the existence of a default under the loan documents, but may rely on notice by the secured party; and any payments by the contract administrator to the secured party shall be credited against amounts payable by the contract administrator to the owner pursuant to the HAP Contract.

9. When Assignment is Prohibited

The consent to assignment as security shall be void *ab initio* if HUD determines that any assignee, or any principal or interested party of the assignee, is debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

SIGNATURES

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

_____
Name of Authorized Representative (print or type)

By: _____
Signature of authorized representative

_____
Name and official title (print or type)

_____
Date (mm/dd/yyyy)

Contract Administrator (CA)

_____
Name of Authorized Representative (print or type)

By: _____
Signature of authorized representative

_____
Name and official title (print or type)

_____
Date (mm/dd/yyyy)

Owner Agreement

The owner has read the terms of HUD's consent to assignment by the owner of a security interest in the HAP Contract to the lender as security for the loan, and to further transfer of such security interest to successor secured parties. In consideration for HUD's grant of such consent to assignment, the owner agrees to all the terms of the consent to assignment, and agrees that any assignment by the owner is subject to all such terms.

_____

Name of Owner (print or type)

By _____

Signature of authorized representative

_____

Name and title (print or type)

_____

Date (mm/dd/yyyy)