

Exhibit 8 of the Cooperative Agreement

Part I of the Rental Assistance Contract

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Section 811 Project Rental Assistance (PRA Demo)
Demonstration

PRA Demo Project Number:	811 PRA Demo Contract Number:	FHA Project Number (if applicable):
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This Rental Assistance Contract (RAC) is entered into by and between _____
(Grantee), and _____ (Owner Legal Name) for rental assisted units at
_____ (Project Name).

Statutory and Administrative Authority. Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990, 42 U.S.C. 8013, as amended by the Frank Melville Supportive Housing Investment Act of 2010, Pub. L. No. 111-374; the Department of Housing and Urban Development Act, 42 U.S.C. 3531, *et seq*, and pursuant to the applicable HUD administrative and regulatory requirements.

Purpose. The purpose of this Contract is to provide Rental Assistance Payments on behalf of Eligible Families leasing Decent, Safe and Sanitary Assisted Units from the Owner.

1.1 Significant Dates and Other Items; Contents and Scope of Contract.

- (a) **Effective Date of Contract:** _____,
- (b) **Fiscal Year.** The ending date of each Fiscal Year shall be _____.
([Insert March 31, June 30, September 30, or December 31, as approved by HUD.) The Fiscal Year for the project shall be the 12-month period ending on this date. However, the first Fiscal Year for the project is the period beginning with the effective date of the Contract and ending on the last day of the Fiscal Year which is not less than 12 months after the effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual rental assistance payment in section 1.1(c) will be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.
- (c) **Maximum Annual Contract Commitment.** The maximum annual amount of the commitment for Rental Assistance Payments under this Contract, as identified in Exhibit 1. \$ 0.00
- (d) **Project Address/Description:** Include the projects street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered project:
- (e) **Statement of Services, Maintenance and Utilities Provided by the Owner:**
- (1) Services and Maintenance:
- (2) Equipment:

(3) Utilities:

(4) Other:

(f) **Contents of Contract.** This Contract consists of Part I, Part II and the following Exhibits:

Exhibit 1: The schedule showing the number of units by size (Assisted Units) and their applicable rents (Contract Rents). Schedule of Assisted Units and Contract Rents

Exhibit 2: iREMS Data Record

Exhibit 3: Grantee Affirmative Fair Housing Marketing Plan, HUD-92243-PRA

Exhibit 4: Use Agreement, HUD-92238-PRA

Exhibit 5: Lease, HUD-92236-PRA

Exhibit 6: Definitions

Exhibit 7: Program Guidelines

Additional exhibits (Specify additional exhibits, if any, such as Special Conditions for Acceptance. If none, insert "None"):

Exhibit 8: Tenant Selection Plan Addendum

Exhibit 9: Owner and Property Manager Guide

(g) **Scope of Contract.** This Contract, including the Exhibits, whether attached or incorporated by reference, comprises the entire agreement between the Owner and the Grantee with respect to the matters contained in it. Neither party is bound by any representations or agreements of any kind except as contained in this Contract, any applicable regulations, and agreements entered into in writing by the parties which are not inconsistent with this Contract.

1.2 Term of Contract, Obligation to Operate Project for Full Term.

(a) **Term of Contract.** The term of this Contract for any unit shall be 20 years. (Note: Minimum contract term is 20 years).

(b) **Obligation to Operate Project for Full Term.** The Owner agrees to continue operation of the Assisted Units within the project in accordance with this Contract for the full term specified in paragraph (a).

1.3 Grantee Assurance.

(a) Grantee has or will receive funds from HUD, pursuant to Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, and subject to appropriations, will provide Rental Assistance Payments for the Assisted Units.

(b) Consistent with the Cooperative Agreement between HUD and the Grantee, Grantee shall provide Rental Assistance Payments for Assisted Units to the Eligible Multifamily Owner, as identified under this Contract.

1.4 No Recourse Provision

(a) In the event HUD cancels the Cooperative Agreement with the Grantee or the Grantee cancels the Rental Assistance Contract in accordance with the provisions of the RAC, the Owner agrees that it shall have no financial or legal recourse against the Grantee.

Warning: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

Signature Page

Name of Owner (Print)

By: _____
Signature of authorized representative

Name (Print) _____

Official Title (Print) _____

Date: _____

Grantee

By: _____
Signature of authorized representative

Name (Print) _____

Official Title (Print) _____

Date: _____

Exhibit 1

Schedule of Contract Units and Contract Rents¹

Number of Assisted Units	Number of Bedrooms	Contract Rent	Utility Allowance	Gross Rent	Maximum Annual Contract Commitment (Number of Assisted Units x Gross Rent)
				\$ 0.00	\$ 0.00

Total Maximum Annual Contract Commitment²: \$ 0.00 _____

Total Number of Assisted Units: _____

Total Number of Non-Assisted Units Restricted to Persons with Disabilities: 0 _____

Expiration Date of the Unit Restriction above, if applicable: _____

Total Number of Units at the Property (Assisted + Non-Assisted): 1 _____

Percent of Assisted Units and other Units Restricted to Persons with Disabilities at the Property³: 0.0% _____

Instructions: This signature box should only be signed by the Owner and Grantee if the schedule of units needs an amendment.

This Exhibit was amended on _____ (date) by _____ (Legal Name of Owner)
and _____ (Grantee) to be EFFECTIVE on _____.

Signatures of Authorized Representatives (Sign and Print):

Owner Signature: _____ Print Name: _____

Grantee Signature: _____ Print Name: _____

¹ This Exhibit must be completed and attached to the Contract at the time the Agreement is executed. It may, however, be amended in accordance with program rules.

² The Total Maximum Annual Contract Commitment will amend as the rent increases occur in subsequent years or as other contract adjustments are made. To calculate the adjusted amount, refer to the Number of Assisted Units and Gross Rent identified on the rent schedule (form HUD-92458).

³ The percentage of Assisted Units AND any other units restricted to people with disabilities MUST NOT exceed 25% of Total Number of Units.

Exhibit 2

This Exhibit shows the additional fields that will be inputted in the project's iREMS record.

I. Owner Information

- a. Owner Entity TIN #: _____
- b. Owner Entity DUNS #: _____
- c. Owner Legal Structure (e.g., Limited Partnership): _____
- d. Mortgagor Type (e.g., Non-Profit, Profit Motivated): _____
- e. Owner Contact Information:
 - i. Name of Contact Individual: _____
 - ii. Mailing Address: _____
 - iii. Phone: _____
 - iv. Fax: _____
 - v. Email: _____

II. Management Agent Information

- a. Management Agent Legal Name: _____
- b. Management Agent Address: _____

- c. Management Agent TIN #: _____
- d. Management Agent Effective Date: _____
- e. Management Agent Contact Information
 - i. Name of Contact Individual: _____
 - ii. Mailing Address: _____
 - iii. Phone: _____
 - iv. Fax: _____
 - v. Email: _____

III. Property Information

- a. Building Type:
 - Row Townhouse Detached Semi-Detached
 - Mid-Rise Walk-up/Garden High-Rise/Elevator
- b. Building Count (enter numeric value): _____
- c. Site Manager Contact Information:
 - i. Name of Contact Individual: _____
 - ii. Mailing Address: _____
 - iii. Phone: _____
 - iv. Fax: _____
 - v. Email: _____

Exhibit 3

Grantee Affirmative Fair Housing Marketing Plan

Exhibit 3, the Ohio Affirmative Fair Housing Marketing Plan (AFHMP), is not attached but it hereby incorporated by reference with the same force and effect as though fully set forth herein. The AFHMP can be found on the Ohio Housing Finance Agency (OHFA) Web site at ohiohome.org/811pra.

Exhibit 4

Use Agreement

USE AGREEMENT

For Projects Assisted Under the Section 811 Project Rental Assistance Demonstration Program

This Agreement entered into this _____ day of _____, 20____ by and between _____ (herein called "Owner") and the _____ (herein called "Grantee"),

Witnessed:

WHEREAS, HUD is directed, pursuant to Section 811 of the Cranston- Gonzalez National Affordable Housing Act (NAHA), as amended by the Frank Melville Supportive Housing Investment Act of 2010, Public Law 111 – 374, to establish the Section 811 Project Rental Assistance Demonstration Program ("PRA Demo") to provide rental assistance to persons with disabilities at eligible multifamily projects; and

WHEREAS, in consideration of the Grantee promise to provide HUD funding to Owner, for the property known as _____, located in _____, more particularly described in the RAC or in a separate development legal description attached as an Exhibit to the Use Agreement, in accordance with HUD requirements related to the PRA Demo, or any successor program, Owner agrees to implement this Use Agreement.

NOW THEREFORE, the parties agree as follows:

Owner, for itself, its successors and assigns, covenants with the Grantee that the Owner will operate a predetermined number of Assisted Units in the Owner's project in accordance with the Section 811 Project Rental Assistance Demonstration Program, Rental Assistance Contract (RAC), HUD PRA Demo requirements, including but not limited to any applicable HUD regulatory, administrative, and contractual requirements, for not less than the thirty (30) years from the date of the Use Agreement. Accordingly, this Use Agreement shall remain in effect until _____, or until such time as the number of Assisted Units in the RAC has been reduced to zero, as approved by the Grantee.

Subject to the availability of appropriations and so long as Owner is in compliance with all HUD requirements, including but not limited to this Use Agreement, the Grantee shall provide to the Owner Rental Assistance Payments for units assisted by Section 811 of NAHA (Assisted Units). If Congress fails to appropriate funds adequate to meet the financial needs of the Assisted Units, HUD will not require the Grantee to enforce the Use Agreement covered under a RAC. Under such a circumstance, HUD will allow Grantee to continue to enforce or terminate the Use Agreement at the Grantee's discretion.

In the event of a breach or a threatened breach of any of the above covenants and agreements by the Owner, Grantee or HUD shall be entitled to institute legal action to enforce performance and observance of such covenants and agreements and to enjoin any acts which violate such covenants and agreements. HUD may also seek an award of damages and/or other relief as may be appropriate.

Owner, for itself, its successors and assigns, hereby agrees and acknowledges that this Use Agreement shall be recorded in the appropriate land records.

With respect to the eligibility requirements for the Assisted Units, Owner will comply with the RAC. Owner will comply with all other PRA Demo, or successor program requirements as promulgated by HUD, as appropriate.

With respect to Assisted Units, Owner will comply with the provisions of any Federal, State or local law prohibiting discrimination in housing on the grounds of race, color, religion or creed, sex, handicap, familial status or national origin, including the Fair Housing Act of 1968, as amended.

The rent charged for Assisted Units shall not exceed the upper limit of the range shown for such type of unit on a rental schedule approved in writing by Grantee, and shall include the reasonable use of all utilities (if applicable) shown on the rental schedule.

Notwithstanding any other provision of this Agreement, adjustments after Contract execution shall not result in higher rents charged for Assisted Units as compared to the non-Assisted Units, as determined by Grantee.

Any requests for rent adjustments to the Grantee by the Owner shall be consistent with the requirements of the Rental Assistance Contract and all other PRA Demo or successor program requirements.

Owner shall maintain the premises and equipment, appurtenant thereto, in good repair, safe and sanitary condition consistent with HUD requirements.

The books and accounts of the operations of the property shall be kept in accordance with the relevant HUD requirements related to the PRA Demo, or any successor program.

Owner further covenants and agrees that if Owner conveys title to the project prior to the Use Agreement's expiration, Owner will prior to transfer of title: (1) confirm the purchaser has been approved by Grantee; the Grantee will ensure the purchaser will operate the project in such a way that it will remain an "Eligible Project" pursuant to 42

U.S.C. 8013(b) (3) (C) and (2) require the purchaser to assume the obligations of this Use

Agreement and the Rental Assistance Contract.

Owner shall provide to Grantee or HUD promptly following receipt of a written request from HUD, copies of all business or any other documents regarding the Housing Project, so that Grantee or HUD may evaluate Owner's compliance with the terms of this Agreement. In addition, Owner shall permit Grantee or HUD following notice from Grantee or HUD, to examine the originals of all such documents, at the Project's office during regular business hours.

Owner must certify annually by _____ of each year to the Grantee that it is operating the Project in compliance with this Agreement and, more specifically, that all Assisted Units and non-Assisted Units, as well as the physical structure of the project as a whole, for example grounds and equipment, comply with all applicable codes and requirements of this Agreement or that a remedial program to correct any existing deficiencies has been implemented.

Should any of the above covenants be held invalid in whole or in part, it shall not affect or invalidate the balance of such covenant or any other covenants.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

In witness whereof, the parties hereto have caused these presents to be executed on their behalf and their seals affixed the day and year written below.

Owner:

Grantee:

Ohio Housing Finance Agency

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

[Notaries contained on next page]

STATE OF OHIO)
) SS
COUNTY OF)

The foregoing instrument was acknowledged before me by _____ acting in the capacity of authorized signer of the Owner.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed my official seal on the ____ day of _____, 2018.

Notary Public

My Commission Expires:_____

STATE OF OHIO)
) SS
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me by _____ acting in the capacity of authorized signer of the Ohio Housing Finance Agency.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed my official seal on the ____ day of _____, 2018.

Notary Public

My Commission Expires:_____

Instrument Prepared By: Legal Office
 Ohio Housing Finance Agency
 57 East Main Street
 Columbus, Ohio 43215

Exhibit 5

Lease

Exhibit 5, the HUD-9236-PRA 811 Project Rental Assistance Demonstration Lease ("Model Lease"), is not attached but it hereby incorporated by reference with the same force and effect as though fully set forth herein. The Model Lease can be found on the Ohio Housing Finance Agency (OHFA) Web site at ohiohome.org/811pra.

Exhibit 6

Definitions

Exhibit 1 of the Cooperative Agreement

DEFINITIONS

[NOTE: The definitions below are applicable to the Section 811 Project Rental Assistance program (811 PRA Program) and related contracts, such as the Cooperative Agreement and Exhibits, including the Rental Assistance Contract and Program Guidelines. All the terms below do not necessarily appear in every 811 PRA document.]

- A. Act means Consolidated and Further Continuing Appropriations Act of 2013, (Public Law 113-6) and the Consolidated Appropriations Act of 2014 (Public Law 113-76)
- B. Administrative Costs are allowable at a rate of no more than eight (8) percent of the rental assistance Grant amount awarded, unless approved by HUD. These funds may be used for planning and other costs associated with developing and operating the Section 811 PRA program, including infrastructure and technology needed to operate the program and costs incurred after applicant's receipt of an Award Letter from HUD and before the execution of the Cooperative Agreement. The costs can include both direct and indirect costs. If a Grantee includes administrative costs in their budget as a direct cost, they cannot charge these costs as part of their indirect cost rate as well, and should instruct their auditor or the government auditor setting the rate of the availability and use of the administrative costs as described in the NOFA.
- C. Agreement means the Cooperative Agreement, Exhibits, and Addendum(s), if any, and any amendment to the documents.
- D. Annual Income as defined in 24 CFR part 5.
- E. Assisted Units means rental units made available to or occupied by Eligible Tenants in Eligible Multifamily Properties receiving assistance under 42 U.S.C. § 8013(b)(3)(A).
- F. Closeout means the process by which HUD determines that all applicable administrative actions and all required work of the Agreement have been completed by Grantee and HUD. The closeout can occur after the period of performance or sooner if necessitated under the Agreement.
- G. Contract Administrator may mean the Grantee's designated entity to administer the 811 PRA Program.
- H. Contract Rent means the total amount of rent specified in the Rental Assistance Contract (RAC) as payable to the Owner for the Assisted Units.
- I. Contract Rent Adjustment means the contract rent that is adjusted at the anniversary of the Rental Assistance Contract (RAC). The contract rent adjustment must be approved in accordance with the RAC and HUD requirements.

- J. Decent, Safe, and Sanitary means such housing that meets the physical condition requirements of 24 CFR part 5, subpart G.
- K. Eligible Applicants means an Extremely Low-Income Person with Disabilities, between the ages of 18 and 62, and Extremely Low Income Families, which includes at least one Person with a Disability, who is between the ages of 18 and 62 at the time of admission. The Person with a Disability must be eligible for community-based, long-term care services as provided through Medicaid waivers, Medicaid state plan options, comparable state funded services or other appropriate services related to the type of disability(ies) targeted under the Inter-Agency Partnership Agreement. The Inter-Agency Partnership Agreement describes the specific target population eligible for the Grantee's program. The target population can be revised with HUD approval.
- L. Eligible Families shall have the same meaning as "Eligible Tenant".
- M. Eligible Multifamily Properties means any new or existing property owned by a nonprofit, public or a private entity with at least 5 housing units. Financing commitments have been made by the Eligible Applicants or any housing agency currently allocating LIHTC under Section 42 of the Internal Revenue Service Code of 1986 (IRC) or any state housing or state community development agency allocating and overseeing assistance under the HOME Investment Partnerships Act (HOME) and/or any federal agency or any state or local government program. Development costs, if any, are paid with other public or private resources. Section 811 and Section 202 Capital Advances may not be used. Properties with existing use restrictions for persons with disabilities are not eligible, unless such PRA Funds are being used to support other units in the building without such restrictions. Existing units receiving any form of long-term (longer than 6 months), project-based operating housing subsidy, such as assistance under Section 8, within a six-month period prior to receiving Rental Assistance Payments are ineligible to receive this assistance. In addition, units with use agreements requiring housing for persons 62 or older would not be eligible to receive Rental Assistance Payments.
- N. Eligible Tenants means Eligible Applicants who are being referred to available Assisted Units in accordance with Grantee's Inter-Agency Agreement and for whom community-based, long-term care services are available at time of referral. Such services are voluntary; referral shall not be based on Eligible Tenant's willingness to accept or not accept such services.
- O. Extremely Low-Income means annual income which does not exceed thirty percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than thirty percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes. HUD's income exclusions, as defined under 24 CFR § 5.609, apply in determining income eligibility at the time of admission and in calculating the Eligible Tenant's income during the interim/annual recertification stages.

- P. Grant means the funds made available by HUD to the Grantee for purposes of providing long-term rental supportive rental assistance for Eligible Tenants. The Grant will fund the difference between the Contract Rent and the Tenant Rent for the Assisted Units. The term “PRA Funds” shall have the same meaning as Grant.
- Q. Grantee means the applicant selected by HUD under a Section 811 PRA (PRA) Notice of Funding Availability to administer the Section 811 PRA program, or any successor program. Grantee shall be a state housing agency or other appropriate entity, as approved by HUD.
- R. HUD means the Department of Housing and Urban Development.
- S. Inter-Agency Partnership Agreement means the formal structure for collaboration to participate in the state’s PRA Program to develop permanent supportive housing for extremely low-income persons with disabilities. This Partnership Agreement must include the Grantee and the state agency(ies) that is charged with administering State Health and Human Services programs and policies, and the State’s Medicaid programs. In states where the State Health and Human Service Agency is not also the State Medicaid Agency, both agencies’ participation must be evidenced. The agreement must include: 1) detailed description of the target population(s) to be served, 2) methods for outreach and referral, and 3) a commitment to make appropriate services available for residents in PRA units in multifamily properties. In the agreement, states must identify the available state administered services and other appropriate services and describe how such services will be made available to the tenants. Participation in any available supportive services is voluntary.
- T. Notice of Funding Availability (NOFA) means the Fiscal Year 2013 Section 811 Project Rental Assistance NOFA published on March 4, 2014 and Technical Corrections to the NOFA.
- U. Owner means the nonprofit, public or for-profit entity which owns the Eligible Multifamily Property.
- V. Persons with Disabilities shall have the same meaning as defined under 42 U.S.C. § 8013(k)(2) and shall also include the following, as found in 24 CFR § 891.305:

A person who has a developmental disability, as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)), i.e., if he or she has a severe chronic disability which:

- (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) Is manifested before the person attains age twenty-two;
- (iii) Is likely to continue indefinitely;
- (iv) Results in substantial functional limitation in three or more of the following areas of major life activity:

- (a) Self-care;
- (b) Receptive and expressive language;
- (c) Learning;
- (d) Mobility;
- (e) Self-direction;
- (f) Capacity for independent living;
- (g) Economic self-sufficiency; and
- (h) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; or

A person with a chronic mental illness, i.e., a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently, and which impairment could be improved by more suitable housing conditions; or

A person infected with the human acquired immunodeficiency virus (HIV) and a person who suffers from alcoholism or drug addiction, provided they meet the definition of "person with disabilities" in 42 U.S.C. § 8013(k)(2).

A person whose sole impairment is a diagnosis of HIV positive or alcoholism or drug addiction (i.e., does not meet the qualifying criteria in section 811 (42 U.S.C. § 8013(k)(2)) will not be eligible for occupancy in an Assisted Unit.

- W. Program Requirements means NAHA, the statutory requirements under a successor program, the NOFA, and any requirements that may be required by HUD, including but not limited to regulations, and administrative requirements that may be in the form of notices, handbooks, or guidebooks, as may be amended from time to time.
- X. Rental Assistance Payments means the payment made by the Grantee or Contract Administrator to the Owner, as provided in the Rental Assistance Contract. Where the Assisted Unit is leased to an Eligible Tenants, the payment is the difference between the Contract Rent and the Tenant Rent. An additional payment is made to or on behalf of the Eligible Tenant when the Utility Allowance is greater than the total tenant payment. A vacancy payment may be made to the Owner when an Assisted Unit is vacant, in accordance with the Rental Assistance Contract and Program Requirements.
- Y. Rental Assistance Contract (RAC) is the contract (form HUD-92235-PRA and form HUD-92237-PRA), as prescribed by HUD, between the Grantee and the Owner of the Eligible Multifamily Property which sets forth the rights and duties of the parties with respect to the Assisted Units in the Eligible Multifamily Property.
- Z. Target Population means the specific group or groups of Eligible Applicants and Tenants described in the Grantee's Inter-Agency Partnership Agreement who are intended to be solely served or to be prioritized under the Grantee's Program.

- AA. Tenant Rent as defined in 24 CFR part 5.
- BB. Total Tenant Payment as defined in 24 CFR part 5.
- CC. Utility Allowance has the same meaning as defined in 24 CFR part 5.
- DD. Uniform Physical Condition Standards (UPCS). Uniform national standards established by HUD for housing that is decent, safe, sanitary, and in good repair. UPCS requires that items in five categories (site, building exterior, building systems, dwelling units, and common areas) and as more specifically described in 24 CFR § 5.703 must be inspected in any physical inspection of the property.

Exhibit 7

Program Guidelines

Exhibit 5 of the Cooperative Agreement

PROGRAM GUIDELINES

FOR THE SECTION 811 PROJECT RENTAL ASSISTANCE DEMONSTRATION (811 PRA) PROGRAM

Part A—Summary and Applicability

- § PRA.101 General
- § PRA.102 Definitions

Part B- Grantee Requirements

- § PRA.201 Cooperative Agreement
- § PRA.202 Grantee's Default under the Cooperative Agreement
- § PRA.203 Inter-Agency Partnership Agreement
- § PRA.204 Use Agreement
- § PRA.205 Rental Assistance Contract (RAC)
- § PRA.206 Administrative Costs
- § PRA.207 Approved Rent and Rent Adjustments
- § PRA.208 Executive Order 13166
- § PRA.209 Compliance with Fair Housing and Civil Rights Laws
- § PRA.210 Affirmatively Furthering Fair Housing
- § PRA.211 Effective Communication
- § PRA.212 Barrier Free/Accessibility Requirements for Units, Buildings, and Facilities, Including Public and Common Use Areas
- § PRA.213 Davis Bacon Labor Standards
- § PRA.214 Energy and Water Conservation
- § PRA.215 Environmental Requirements and Environmental Assurance
- § PRA.216 Coastal Barrier Resources Act
- § PRA.217 Lead-based paint
- § PRA.218 Program Income
- § PRA.219 Procurement of Recovered Materials
- § PRA.220 HUD's Electronic Line of Credit Control System
- § PRA.221 Tenant Rental Assistance Certification System (TRACS)
- § PRA.222 Uniform Administrative Requirements
- § PRA.223 Grantee duty to ensure Owner requirements are satisfied

Part C—Rental Assistance Contract

- § PRA.301 Rental Assistance Contract (RAC)
- § PRA.302 Term of the RAC
- § PRA.303 Leasing to Eligible Tenants
- § PRA.304 Supportive Services
- § PRA.305 Limitations on Assisted Units
- § PRA.306 Grantee Program Administration
- § PRA.307 Housing Standards for Assisted Units
- § PRA.308 Default by Owner
- § PRA.309 Default by Grantee
- § PRA.310 Notice Upon Contract Expiration
- § PRA.311 Financing

Part D—Owner Requirements

- § PRA.401 Use Agreement
- § PRA.402 Responsibilities of the Owner
- § PRA.403 Selection and Admission of Eligible Tenants
- § PRA.404 Overcrowded and Under Occupied Units
- § PRA.405 Uniform Physical Construction Standards

- § PRA.406 Reviews During Management Period
- § PRA.407 Barrier Free/Accessibility Requirement for Units, Buildings, and Facilities, Including Public and Common Use Areas
- § PRA.408 Compliance with Fair Housing and Civil Rights Laws
- § PRA.409 Tenant Organization Rights
- § PRA.410 Effective Communication
- § PRA.411 Executive Order 13166

Part A— Applicability

§ PRA.101 General.

The purpose of the Section 811 Project Rental Assistance program, as authorized under the Frank Melville Supportive Housing Investment Act of 2010, is to provide Extremely Low Income Persons with Disabilities and Extremely Low Income households with at least one Person with Disabilities with decent, safe and sanitary rental housing through the use of Rental Assistance Payments to Owners. The Section 811 Project Rental Assistance program guidelines are applicable only to the Assisted Units, as defined in below. Grantee and Owners must comply with these guidelines without modification, unless approved by HUD.

§ PRA.102 Definitions.

Refer to Exhibit 1 of the Cooperative Agreement for the definitions.

Part B- Grantee Requirements

§ PRA.201 Cooperative Agreement.

Grantee must execute a Cooperative Agreement (HUD-93205-PRA) with HUD. The terms of the Cooperative Agreement include the work to be performed and any special conditions or requirements. Grantee shall not modify the Cooperative Agreement without the written consent of HUD.

§ PRA.202 Grantee's Default under the Cooperative Agreement.

In the event of a default, as defined by the Cooperative Agreement, HUD may exercise all remedies as outlined in the Agreement including but not limited to terminating the Cooperative Agreement and/or assuming all or some of the RACs.

§ PRA.203 Inter-Agency Partnership Agreement (IPA). As defined in the Cooperative Agreement and included as Exhibit 3 to the Cooperative Agreement.

§ PRA.204 Use Agreement.

The Grantee shall be responsible for ensuring the Grantee-approved Use Agreement (HUD-92238-PRA) is recorded by the Owner consistent with local law. Grantee is responsible for enforcing the provisions of the Use Agreement against the Owner, subject to the exception below and any other applicable HUD administrative guidance and requirements.

If Congress fails to appropriate funds adequate to meet the future financial needs of the Cooperative Agreement and or the Cooperative Agreement is terminated, HUD will not require Grantee to enforce any Use Agreements on Eligible Multifamily Properties covered under a RAC. Under such a circumstance, and in accordance with the Cooperative Agreement, HUD will allow Grantee or Grantee's designee to continue to enforce or terminate such Use Agreements at the Grantee's or Grantee's designee's discretion.

§ PRA.205 Rental Assistance Contract (RAC).

(a) Grantee or Grantee's designee must execute a Rental Assistance Contract (HUD-92235-PRA and HUD-92237-PRA), in the form prescribed by HUD with Owners pursuant to the requirements set forth in the Cooperative Agreement.

If Congress fails to appropriate funds adequate to meet the future financial needs of the Cooperative Agreement, or the Cooperative Agreement is terminated, then HUD will permit Grantee or Grantee's designee to continue or terminate the RAC, at the Grantee or Grantee's designee's discretion.

§ PRA.206 Administrative Costs.

Administrative costs are allowable at a rate of no more than 8 (eight) percent of the amount awarded unless modified with HUD consent in accordance with the Cooperative Agreement. These funds may be used for planning and other costs associated with developing and operating the Section 811 PRA program, including infrastructure and technology needed to operate the program and costs incurred after applicant's receipt of an Award Letter from HUD and before the execution of the Cooperative Agreement. The costs can include both direct and indirect costs. If a Grantee includes administrative costs in their budget as a direct cost, they cannot

charge these costs as part of their indirect cost rate as well, and should instruct their auditor or the government auditor setting the rate of the availability and use of the administrative costs as described in the NOFA.

§ PRA.207 Approved Rent and Rent Adjustments.

The initial RAC gross rent may not exceed the applicable or Fair Market Rent (FMR) level as determined by HUD, unless such rent level is substantiated by a market study that has been prepared in accordance with the requirements of a state housing agency or of Chapter 9 of HUD’s Section 8 Renewal Guide, or as approved by HUD. Rents can only be adjusted annually based upon: (1) HUD’s Operating Cost Adjustment Factor (OCAF), (2) other operating cost index approved by HUD as has been adopted by the Grantee for purposes of subsidizing affordable housing, or (3) approval by HUD.

§ PRA.208 Executive Order 13166.

Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency (LEP)”, seeks to improve access to federally assisted programs and activities for individuals who, as a result of national origin, are limited in their English proficiency. Grantee obtaining federal financial assistance from HUD shall take reasonable steps to ensure meaningful access to their programs and activities to LEP individuals.

§ PRA.209 Compliance with Fair Housing and Civil Rights Laws.

Grantee must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act; and Section 109 of the Housing and Community Development Act of 1974. Grantee must also comply with HUD’s Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity requirements. See HUD’s Equal Access rules at 24 C.F.R. §§ 5.100, 5.105(a)(2), 5.403 and HUD’s final rule published in the *Federal Register* at 77 Fed. Reg. 5662, “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity.”

If the Grantee is in a state or jurisdiction that has also passed a law or laws proscribing discrimination in housing based upon sexual orientation or gender identity, or a law or laws proscribing discrimination in housing based on lawful source of income, the Grantee and its subrecipients must comply with those laws of the states or localities in which the programs or activities are conducted;

In addition, in executing this Cooperative Agreement, Grantee certifies that they will comply with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act.

Grantee shall refer to Handbook 4350.3 REV-1, chapter 2 for further guidance.

§ PRA.210 Affirmatively Furthering Fair Housing.

Under Section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funding recipients. Grantees will be required to certify that they will affirmatively further fair housing, and each grantee must establish an affirmative fair housing marketing plan for its state PRA program, and require other participating agencies and owners to follow its plan if responsible for marketing PRA-Assisted Units. Grantees must adopt affirmative marketing procedures for their Section 811 PRA program. Affirmative marketing procedures consist of actions to provide information and otherwise attract eligible persons to the program regardless of race, color, national origin, religion, sex, disability, or familial status, who are not likely to apply to the program without special outreach. Grantees must affirmatively further fair housing by selecting projects for participation that offer access to appropriate services, accessible transportation, and commercial facilities to ensure greater integration of persons with disabilities in the broader community. Grantees must require owners of Eligible Multifamily Properties to adopt actions and

procedures to ensure that the Assisted Units are dispersed and integrated within the property. Grantees must keep records describing actions taken to affirmatively market the program, annually assess the success of their affirmative marketing activities, and make any necessary changes to their affirmative marketing procedures as a result of the evaluation. Grantees must follow the methods of outreach and referral and program waiting list policies, as described in Grantee's application and as approved by HUD. All methods of outreach and referral and management of the program waiting list must be consistent with fair housing and civil rights laws and regulations, and affirmative marketing requirements.

§ PRA.211 Effective Communications.

Grantee must ensure that all communications are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973(see 24 CFR § 8.6) and the Americans with Disabilities Act.

§ PRA.212 Barrier Free/Accessibility Requirements for Units, Buildings, and Facilities, Including Public and Common Use Areas.

Grantee is subject to Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8 and Title II of the Americans with Disabilities Act and implementing regulations at 28 CFR part 35. Covered multifamily dwellings as defined in 24 CFR part 100 must also meet the design and construction requirements of the Fair Housing Act and 24 CFR part 100. However, Assisted Units can consist of a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.

§ PRA.213 Davis Bacon Labor Standards.

All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this NOFA, Exhibit 2 shall be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*). Contracts involving employment of laborers and mechanics shall be subject to the provisions of the Contract Work Hours and Safety Standards Act (CWHSSA)(40 U.S.C 3701 *et seq.*). Owners of Eligible Multifamily Properties, contractors and subcontractors must comply with all related rules, regulations, and requirements. Grantee shall be responsible for ensuring inclusion of appropriate contract provisions, monitoring to ensure compliance, and correction of violations in accordance with HUD guidance. Projects where construction is fully complete before an application is submitted to the Grantee to receive assistance under the 811 PRA program are not subject to Davis-Bacon or CWHSSA requirements. In accordance with U.S. Department of Labor regulations at 29 CFR 1.6(g), if a project is approved by Grantee to receive 811 PRA funds after a contract for construction of the project has been awarded (or after the beginning of construction where there is no contract award) but before completion of construction, the state housing agency shall require that the wage determination effective on the date of award (or beginning of construction) be incorporated into the construction contract retroactively to the date of award or beginning of construction. Grantee may, however, request the HUD Office of Labor Relations to seek approval from the U.S. Department of Labor for the incorporation of a wage determination to be effective on the date of the state housing agency's approval of 811 PRA funds for the project. Such approval may be granted only where there is no evidence of intent to apply for the federal assistance for the project prior to contract award or start of construction.

§ PRA.214 Energy and Water Conservation

Grantees are required to build to a higher standard by incorporating components of sustainable building in PRA developments. At a minimum, energy efficiency strategies and water conservation appliances and fixtures must be incorporated in the design, construction, and operation of all new construction and substantial (gut) rehabilitation projects when such projects apply for PRA funding.

(a) Energy Efficiency. Owners of new construction and substantial rehabilitation low-rise (up to 3 stories) Eligible Multifamily Properties must meet the requirements of EPA's ENERGY STAR Qualified Homes. Mid-Rise & High Rise developments (4 or more stories) must meet the requirements of the ENERGY STAR Qualified Multifamily High Rise Buildings. Any state energy code requirements will take precedence over ENERGY STAR specifications when the state code approximates or exceeds that standard.

(b) Water Conservation Fixtures. Installation of water-conserving fixtures is required in all new and substantially rehabilitated developments (i.e. resource efficient plumbing and appliances such as low flow showerheads and faucet and high efficiency toilets). The materials used should be the most current WaterSense or a greater water efficiency product. More information is available at www.epa.gov/owm/water-efficiency.

§ PRA.215 Environmental Requirements and Environmental Assurance.

(a) As HUD does not approve program funding for specific activities or projects of the Grantees, it will not perform environmental reviews on such activities or projects. However, to ensure that the tenets of HUD environmental policy and the requirements of applicable statutes and authorities are met, Grantees will be required to implement the following analyses and determinations for specific program activities and projects. The environmental tenets apply to both existing and new projects per the requirements below. Existing properties that are currently HUD-assisted or HUD-insured and that will not engage in activities with physical impacts or changes beyond routine maintenance activities or minimal repairs are not required to comply with the environmental tenets. If, at the time that a project applies for PRA assistance, the project is under construction or being rehabilitated, the project shall be subject to the environmental review requirements applicable to new construction or rehab if the work has **not** progressed beyond a stage of construction where modifications can be undertaken to avoid the adverse environmental impacts addressed by the requirement.

Citations to authorities in the following paragraphs are for reference only; to the extent that property standards or restrictions on the use of properties stated in the following paragraphs are more stringent than provisions of the authorities cited, the requirements stated in the following paragraphs shall control:

- (1) Site Contamination (24 CFR 50.3(i)). It is HUD policy that all properties for use in HUD assisted housing be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property (24 CFR 50.3(i)(1)). Therefore, projects applying for assistance shall:
 - (a) Assess whether the site (i) is listed on an EPA Superfund National Priorities or CERCLA list or equivalent State list; (ii) is located within 3,000 feet of a toxic or solid waste landfill site; (iii) has an underground storage tank other than a residential fuel tank; or (iv) is known or suspected to be contaminated by toxic chemicals or radioactive materials. If none of these conditions exist, a letter of finding certifying these findings must be submitted and maintained in the site's environmental record. If any of these conditions exist, the grantee must provide an ASTM Phase I Environmental Site Assessment (ESA) in accordance with ASTM E 1527-05 (or the most recent edition); OR
 - (b) Provide a Phase I ESA in accordance with ASTM E 1527-05 (or the most recent edition).

Note: A Phase I ESA, which complies with these standards, and was prepared within the Phase I ESA continuing viability timeframe for the acquisition of the property or a real estate transaction (construction, rehabilitation, or refinancing) for the property, will be deemed acceptable.

If a Phase I ESA is conducted and the Phase I ESA identifies RECs, a Phase II ESA in accordance with ASTM E 1903-11 (or the most recent edition) shall be performed. Any hazardous substances and/or

petroleum products that are identified at levels that would require clean-up under State policy shall be so cleaned up in accordance with the State's clean-up policy. Risk-Based Corrective Actions are permitted if allowed for under a State's clean-up policy.

(2) Historic Preservation (16 U.S.C. 470 et seq.).

- (a) As the various States, Territories, Tribes and municipalities have established historic preservation programs to protect historic properties within their jurisdiction, all work on properties identified as historic by the State, Territory, Tribe, or Municipality, as applicable, must comply with all applicable State, territorial, and tribal historic preservation laws and requirements and, for projects affecting locally designated historic landmarks or districts, local historic preservation ordinance and permit conditions.
- (b) In addition, all work on properties listed on the National Register of Historic Places, or which the Grantee knows are eligible for such listing, must comply with "The Secretary of the Interior's Standards for Rehabilitation." Complete demolition of such properties would not meet the Standards and is prohibited.
- (c) On site discoveries. If archaeological resources and/or human remains are discovered on the project site during construction, the recipient must comply with applicable State, tribal, or territory law, and/or local ordinance (e.g., State unmarked burial law).

(3) Noise (24 CFR Part 51, Subpart B - Noise Abatement and Control). All activities and projects involving new construction shall be developed to ensure an interior noise level of 45 decibels (dB) or less. In this regard, and using the day-night average sound level (Ldn), sites not exceeding 65 dB of environmental noise are deemed to be acceptable; sites above 65 dB require sound attenuation in the building shell to 45 dB; and sites above 75 dB shall not have noise sensitive outdoor uses (e.g. picnic areas, tot lots, balconies or patios) situated in areas exposed to such noise levels.

(4) Airport Clear Zones (24 CFR Part 51, Subpart D - Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields). No activities or projects shall be permitted within the "clear zones" or the "accident potential zones" of military airfields or the "runway protection zones" of civilian airports.

(5) Coastal Zone Management Act (16 U.S.C. 1451 et seq.). Activities and projects shall be consistent with the appropriate state coastal zone management plan. Plans are available from the local coastal zone management agency.

(6) Floodplains (Executive Order 11988; Flood Disaster Protection Act (42 U.S.C. 4001-4128)). No new construction activities or projects shall be located in the mapped 500-year floodplain or in the 100-year floodplain according to FEMA's Flood Insurance Rate Maps (FIRM). Existing structures may be assisted in these areas, except for sites located in coastal high hazard areas (V Zones) or regulatory floodways, but must meet the following requirements:

- (a) The existing structures must be flood-proofed or must have the lowest habitable floor and utilities elevated above both the 500-year floodplain and the 100-year floodplain.
- (b) The project must have an early warning system and evacuation plan that includes evacuation routing to areas outside of the applicable floodplains.
- (c) Project structures in the 100-year floodplain must obtain flood insurance under the National Flood Insurance Program. No activities or projects located within the 100-year floodplain may be assisted in a community that is not participating in or has been suspended from the National Flood Insurance Program.

- (7) Wetlands (Executive Order 11990). No new construction shall be performed in wetlands. No rehabilitation of existing properties shall be allowed that expands the footprint such that additional wetlands are destroyed. New construction includes draining, dredging, channelizing, filling, diking, impounding, and related grading activities. The term wetlands is intended to be consistent with the definition used by the U.S. Fish and Wildlife Service in Classification of Wetlands and Deep Water Habitats of the United States (Cowardin, et al., 1977). This definition includes those wetland areas separated from their natural supply of water as a result of activities such as the construction of structural flood protection methods or solid-fill road beds and activities such as mineral extraction and navigation improvements.
- (8) Siting of Projects Activities Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature (24 CFR Part 51, Subpart C). Unshielded or unprotected new construction sites shall be allowed only if they meet the standards of blast overpressure (0.5psi – buildings and outdoor unprotected facilities) and thermal radiation (450 BTU/ft² -hr – people, 10,000 BTU/ft²-hr – buildings) from facilities that store, handle, or process substances of explosive or fire prone nature in stationary, above ground tanks/containers.
- (9) Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). New construction shall not be permitted that would result in a taking of endangered plant or animal species as listed under the Endangered Species Act of 1973. Taking includes not only direct harm and killing but also modification of habitat. Maps for listed species and geographic habitat by state can be found at:
http://ecos.fws.gov/tess_public/StateListing.do?state=all.
- (10) Farmland Protection (7 USC 4201 et seq.). New construction shall not result in the conversion of unique, prime, or otherwise productive agricultural properties to urban uses.
- (11) Sole Source Aquifers (Section 1424(e) of the Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 et seq., and 21 U.S.C. 349)). Any new construction activities and projects located in federally designated sole source aquifer areas (SSAs) shall require consultation and review with the U.S. Environmental Protection Agency (USEPA). Information regarding location and geographic coverage of the 73 federally designated SSAs can be found at:
<http://water.epa.gov/infrastructure/drinkingwater/sourcewater/protection/solesourceaquifer.cfm>.

§ PRA.216 Coastal Barrier Resources Act.

The Grantee must adhere to the Coastal Barrier Resources Act which prohibits activities or projects in Coastal Barrier Resource System (CBRS) units. CBRS units are mapped and available from the Fish and Wildlife Service at: <http://www.fws.gov/CBRA/>.

§ PRA.217 Lead Based Paint.

The Lead Safe Housing Rule (specifically 24 CFR 35, subparts B, H and R) applies to project based rental assistance of pre-1978 housing for persons with disabilities when a child of less than 6 years of age resides or is expected to reside in such housing. For Eligible Multifamily Properties in which such units will receive an annual average of more than \$5,000 of rental assistance in any year, a lead risk assessment, followed by interim controls of any lead-based paint hazards identified must be conducted, and a reevaluation must be conducted every two years during the assistance period. For properties in which such assistance is less than or equal to \$5,000, a visual assessment for deteriorated paint must be conducted during the initial and periodic inspections, followed by paint stabilization of any deteriorated paint identified. The Environmental Protection Agency's

Renovation, Repair and Painting (RRP) Rule also applies to such target housing when renovation, repair or painting work is conducted; among other requirements, the work, using lead-safe work practices, must be a conducted or supervised by certified lead renovator working for a certified lead renovation firm when the amount of work exceeds the RRP Rule's minor repair and maintenance area threshold. See 40 CFR 745.

§ PRA.218 Program Income.

Grantee must have sufficient knowledge and experience to identify and account for program income as defined in 24 CFR part 85. All program income including interest earned on any award supported activity (if it generates program income it has to be accounted for whether it is paid to a Grantee or is used for a program purpose without passing back to the Grantee) is subject to the terms and conditions of the Cooperative Agreement and such U.S. Treasury rules as may apply. More specifically, Grantee must document receipt of program income and how the funds were used.

§ PRA.219 Procurement of Recovered Materials.

State agencies and agencies of a political subdivision of a state that are using assistance under a HUD program NOFA for procurement, and any person contracting with such an agency with respect to work performed under an assisted contract, must comply with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

In accordance with Section 6002, these agencies and persons must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ PRA.220 HUD's Electronic Line of Credit Control System.

Grantee must be eligible to acquire rights and access under HUD's Electronic Line of Credit Control System and/ or other database system approved by HUD.

§ PRA.221 Tenant Rental Assistance Certification System (TRACS).

Grantee must use software that has the capability to receive tenant's certification and recertification data (form HUD 50059) and voucher data (form HUD 52670) electronically from owners. The Grantee must have the capability to transmit HUD 50059 data to HUD TRACS Tenant System and HUD 52670 data to HUD TRACS Voucher/Payment System, and to receive return messages transmitted from TRACS.

§ PRA.222 Uniform Administrative Requirements.

All States, Territories, Urban Counties, and Metropolitan cities receiving funds under this NOFA shall be subject to the requirements of 24 CFR part 85. Non-profit subgrantee shall be subject to the requirements of 24 CFR part 84. Administrative requirements covered by Parts 84 and 85 include, but are not limited to: financial management system standards, payment standards, allowable costs, non-Federal audit, supplies and procurement.

§ PRA.223 Grantee duty to ensure Owner requirements are satisfied

Grantee is responsible for ensuring all Owner requirements as may be stated in the 811 PRA statutory authority, the NOFA, the Cooperative Agreement, including specific Owner requirements under the Program Guidelines, Rental Assistance Contract and Use Agreement are met at all times. Grantee agrees to monitor Owners in

accordance with all applicable contractual and HUD statutory requirements and pursue corrective action or pursue legal remedies against the Owner where appropriate.

Part C—Rental Assistance Contract

§ PRA.301 The Rental Assistance Contract (RAC).

- (a) *Rental Assistance Contract (RAC)*. The RAC (HUD-92235-PRA and HUD-92237-PRA, in the form prescribed by HUD, sets forth rights and duties of the Owner and the Grantee with respect to the Eligible Multifamily Property and the Assisted Units. In the event another entity is designated by the Grantee to administer the RAC, the Grantee remains responsible for enforcing all provisions of the RAC.
- (b) *Rental assistance payments to Owners under the RAC*. The Rental Assistance Payments are made monthly by the Grantee upon proper requisition by the Owner. The rental assistance payments made under the RAC are:
- (1) Payments to the Owner to assist Eligible Tenant residing in Eligible Multifamily Properties and
 - (2) Payments to the Owner for vacant Assisted Units (“vacancy payments”) if the conditions specified in HUD administrative guidance are satisfied.
- (c) *Amount of Rental Assistance Payments to Owner*.
- (1) The amount of the Rental Assistance Payment made to the Owner of an Assisted Unit being leased by the Eligible Tenant is the difference between the contract rent for the unit and the tenant rent owed by the Eligible Tenant as determined in accordance with applicable administrative and regulatory requirements.
 - (2) If the Grantee program includes vacancy payments, a Rental Assistance Payment may be made to the Owner for a vacant Assisted Unit that may not exceed 80 percent of the contract rent for up to 60 days of vacancy, subject to the conditions as may be imposed by HUD administrative guidance. If the Owner collects any tenant rent or other amount for this period which, when added to this vacancy payment, exceeds the contract rent, the excess must be repaid as HUD directs.
- (d) *Payment of utility reimbursement*. Where applicable, the Owner will pay a utility reimbursement in accordance with 24 C.F.R. § 5.632.

§ PRA.302 Term of the RAC.

The term of the RAC shall be for no less than twenty years and subject to appropriations. The RAC may be renewed based upon the applicable requirements as established by HUD and appropriations.

§ PRA.303 Leasing to Eligible Tenants.

(a) Availability of Assisted Units for Eligible Tenant in the Target Population.

During the term of the RAC, Owner shall make available for occupancy by Eligible Tenants in the Target Population the total number of Assisted Units committed under the RAC. For purposes of this section, making units available for occupancy by Eligible Families means that the owner:

- (1) Has leased or is making good faith efforts to lease the units to Eligible Tenants, in the Target Population including informing the Grantee or their designee of a vacancy and holding the unit open for a reasonable period of time; and
- (2) Has not rejected any such applicant family except for reasons permitted under the RAC, the Project Rental Assistance Program Guidelines or the Grantee-approved tenant selection plan for the PRA units.. Failure on the part of the Owner to comply with this requirement is a violation of the RAC and grounds for all available legal remedies, including specific performance of the RAC, suspension or debarment from HUD programs, and reduction of the number of Assisted Units under the RAC.

(b) *Reduction of number of Assisted Units covered by RAC.* The Grantee may reduce the number of Assisted Units covered by the RAC if:

- (1) The Owner fails to comply with the requirements of paragraph (a) of this section; or
- (2) Grantee determines that the inability to lease Assisted Units to Eligible Families is not a temporary problem.

(c) *Increase in number of Assisted Units covered by RAC.* The Grantee may increase the number of the Assisted Units covered by the RAC if:

- (1) The program funding amount with the increased number of assisted units does not exceed the maximum amount of grant funds awarded in Exhibit 4 of the Cooperative Agreement; and
- (2) The owner complies with § PRA.305.

(d) *Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.* Subpart L of 24 CFR part 5 shall apply to the Assisted Units in Eligible Multifamily Properties.

§ PRA.304 Supportive Services.

Eligible Tenant's participation in supportive services is voluntary and cannot be required as a condition of admission or occupancy.

§ PRA.305 Limitations on Assisted Units.

(a) Eligible Multifamily Properties may only receive Rental Assistance Payments if the housing assisted does not currently have an existing use restriction for persons with disabilities. Units receiving any form of federal or state project-based rental assistance for a period of 6 months or longer are ineligible to receive Rental Assistance Payments, unless such payments are being used to support other units in the building without such restrictions. Existing units receiving any form of long-term operating housing subsidy within a six-month period prior to receiving Rental Assistance Payments, such as assistance under Section 8, are ineligible to receive this assistance.

(b) Units with use agreements requiring housing for persons 62 or older are not be eligible to receive Project Rental Assistance Payments.

(c) No more than twenty five percent of the total units in Eligible Multifamily Properties can: (1) be provided Rental Assistance Payments; (2) be restricted to supportive housing for persons with disabilities; or 3) have any occupancy preference for Persons with Disabilities.

(d) These units must be dispersed throughout the property and must not be segregated to one area of a building (such as on a particular floor or part of a floor in a building or in certain sections within a project). Owners will designate the number of units to be set-aside as Assisted Units but the types (*e.g.*, accessible) and the specific units numbers (*e.g.*, units 101, 201, etc.) will be flexible depending on the needs of the program and the availability of the units in the property.

§ PRA.306 Grantee Program Administration.

The Grantee is responsible for the overall management of the award and administration of the Section 811 PRA funds awarded by HUD. Grantees may contract with third party entities to manage all or a portion of the rent administration requirements as outlined in Section XIV to a Grantee with the approval from HUD. Grantee however remains responsible and liable for enforcing all provisions of the RAC and the Cooperative Agreement.

§ PRA.307 Housing Standards for Assisted Units.

Eligible Multifamily Properties with Assisted Units must comply with:

- (a) Applicable State and local laws, codes, ordinances and regulations.

(b) *Smoke detectors* —

- (1) *Performance requirement.* After October 30, 1992, each dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system, designed for hearing-impaired persons, in each bedroom occupied by a hearing-impaired person.
- (2) *Acceptability criteria.* The smoke detector must be located, to the extent practicable, in a hallway adjacent to a bedroom, unless the unit is occupied by a hearing-impaired person, in which case each bedroom occupied by a hearing-impaired person must have an alarm system connected to the smoke detector installed in the hallway.

(c) Assisted Units must meet minimum Uniform Physical Condition Standards as more fully described in 24 C.F.R. 5.703.

(d) Accessibility requirements in accordance with the Fair Housing Act and implementing regulations at 24 CFR part 100, Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8 and as applicable, Titles II and III of the Americans with Disabilities Act and implementing regulations at 28 CFR parts 35 and 36, respectively.

§ PRA.308 Default by Owner.

The RAC will provide:

- (a) That if the Grantee determines that the Owner is in default, the Grantee will notify the Owner of the actions required to be taken to cure the default and of the remedies to be applied by the Grantee, including specific performance under the RAC, reduction or suspension of rental assistance payments and recovery of overpayments, where appropriate; and
- (b) That if the owner fails to cure the default, the Grantee has the right to terminate the RAC or take other corrective action.

§ PRA.309 Default by Grantee.

Rights of HUD if the Grantee defaults under RAC. The RAC will provide that, in the event of failure of the Grantee to comply with the RAC, the Owner will have the right, if he is not in default, to demand that HUD investigate. HUD will give the Grantee a reasonable opportunity to take corrective action. If HUD determines that a substantial default exists and the Grantee is unwilling or unable to cure, HUD may, at its discretion, take all appropriate remedies under the Cooperative Agreement, including but not limited to assuming the Grantee's rights and obligations under the RAC.

§ PRA.310 Notice Upon Rental Assistance Contract Expiration.

(a) The Owner will notify each Eligible Family in the Assisted Units, at least 90 days before the end of the RAC term, of any increase in the amount the family will be required to pay as rent which may occur as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each Eligible Family who will no longer be assisted under the Contract.

(b) The notice provided for in paragraph (a) of this section shall be accomplished by:

- (1) Sending a letter by first class mail, properly stamped and addressed, to the Eligible Family at its address at the project, with a proper return address; and
- (2) Serving a copy of the notice on any adult person answering the door at the leased dwelling unit, placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be considered to be effective until both required notices have been accomplished. The date on which the notice shall be considered to be received by the Eligible Family shall be the date on which the owner mails the first class letter provided for in this paragraph, or the date on which the notice provided for in this paragraph is properly given, whichever is later.

(c) The notice shall advise each affected Eligible Family that, after the expiration date of the Contract, the Eligible Family will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise regulated by HUD) to alter the rent without HUD or Grantee approval, but subject to any applicable requirements or restrictions under the lease (HUD-92236-PRA) or under State or local law. The notice shall also state:

- (1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract;
- (2) The difference between the rent and the Total Tenant Payment toward rent under the Contract; and
- (3) The date the Contract will expire.

(d) The owner shall give HUD a certification that families have been notified in accordance with this section with an example of the text of the notice attached.

§ PRA.311 Financing.

(a) *Pledge of RAC.* An Owner may pledge, or offer as security for any loan or obligation the RAC, *provided* that such financing is in connection with an Eligible Multifamily Property with Assisted Units subject to these Program Guidelines and approved by Grantee. Any pledge of the RAC or payments there under, will be limited to the amounts payable under the RAC in accordance with its terms.

(b) *Foreclosure and other transfers.* In the event of foreclosure, assignment or sale in lieu of foreclosure, or other assignment or sale of the Eligible Multifamily Property, as may be approved by the Grantee:

- (1) The RAC shall be transferred to the new Owner, and
- (2) Rental Assistance Payments will continue uninterrupted in accordance with the terms of the RAC.

Part D—Owner Requirements

§ PRA.401 Use Agreement.

(a) Owners must agree to record a Use Agreement (HUD-92238-PRA) for not less than thirty years, in the form prescribed by HUD.

(b) During the Use Agreement period, Owners shall make the Grantee's approved number of Assisted Units available for occupancy to Eligible Families referred pursuant to the Inter-Agency Partnership Agreement.

§ PRA.402 Responsibilities of Owner.

(a) *Marketing and Outreach* The Grantee is responsible for identifying the target populations, developing methods for outreach, and referral and marketing, and maintaining waiting lists for these assisted units as outlined in the Grantee's Inter-Agency agreement and NOFA application. Marketing by the Owner, where applicable (as may be outlined in Grantee's Cooperative Agreement or Inter-Agency Partnership Agreement), must be done in accordance with the Grantee's Affirmative Fair Housing Marketing Plan (HUD-92243-PRA) and all HUD Fair Housing and Equal Opportunity requirements. The purpose of the Plan and requirements is to assure that Eligible Families in the same housing market area have an equal opportunity to apply and be selected for an Assisted Unit regardless of their race, color, national origin, religion, sex, disability or familial status.

(b) *Management and maintenance.* The Owner is responsible for all management functions, including screening of Eligible Applicants in accordance with the Grantee approved tenant selection plan, reexamination and verification of family income and composition, determination of family rent (total tenant payment, tenant rent and utility reimbursement), collection of rent, termination of tenancy and eviction, and performance of all repair and maintenance functions (including ordinary and extraordinary maintenance), and replacement of capital items. All functions must be performed in accordance with applicable nondiscrimination and equal opportunity requirements. Owner has tenant selection responsibilities apart from screening only as provided in the Inter-Agency Agreement.

(c) *Contracting for services.* The Owner may contract with a private or public entity (except the Grantee) for performance of the services or duties required in paragraphs (a) and (b) of this section. However, such an arrangement does not relieve the Owner of responsibility for these services and duties.

(d) *Submission of financial and operating statements.* The Grantee shall establish control measures with the Owner to meet the Grantee's financial requirements of submitting audited annual financial statements that comply with the requirements of OMB Circular Super Circular.

(e) *Use of project funds.* Rental Assistance Payments must be used for the benefit of the Assisted Units.

§ PRA.403 Selection and Admission of Eligible Tenants.

(a) *Application.* The Owner must accept referrals of Eligible Applicants from the Grantee or their designee for determining eligibility with the Owner's Grantee-approved tenant selection plan. Upon request of the Grantee or HUD, the Owner must furnish copies of all applications to HUD and/or the Grantee.

(b) *Determination of eligibility and selection of Eligible Tenants.* The Owner is responsible for:

- (1) obtaining and verifying information related to Social Security Numbers of Eligible Family members in accordance with 24 CFR part 5, subpart B. Owner shall refer to Handbook 4350.3 REV-1, chapters 3-3, B. and C., 3-9, and 3-11, and 3-31 for further guidance;
- (2) obtaining and verifying income through the use of Enterprise Income Verification (EIV), pursuant to 24 C.F.R. 5.233(a)(2). Owner shall refer to Handbook 4350.3 REV-1, chapter 3-30 for further guidance;

- (3) obtaining and verifying information related to income eligibility of Eligible Families in Assisted Units in accordance with 24 CFR part 5, subpart F. Owner shall refer to Handbook 4350.3 REV-1, chapter 3-30 for further guidance;
 - (4) preventing crime in the Assisted Units, including the denial of admission to persons engaged in criminal activity or has certain criminal histories, in accordance with 24 CFR part 5, subpart H. Owner shall refer to Handbook 4350.3 REV-1, chapter 4-27, E. for further guidance.
 - (5) complying with protections for victims of domestic violence, dating violence, sexual assault, or stalking, pursuant to 24 CFR part 5, subpart L; and
 - (6) complying with all other applicable requirements, including but not limited to the RAC, Project Rental Assistance Program Guidelines, and any other HUD administrative requirements.
- (c) If the Owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 5), or because of failure by an applicant to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR parts 5), or that the Owner is not selecting the applicant for other reasons, the Owner will promptly notify the applicant and copy the Grantee in writing of the determination and its reasons, and that the applicant has the right to meet with the Owner (or Owner's designee) and has the right to request a reasonable accommodation. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, national origin, religion, sex, disability or familial status. Records on applicants and approved Eligible Families, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three years. Owner shall refer to Handbook 4350.3 REV-1, chapter 4-9 for further guidance on rejecting applicants and denial of rental assistance.

§ PRA.404 Overcrowded and Under Occupied Units.

If the Owner determines that because of change in family size an Assisted Unit is smaller than appropriate for the eligible family to which it is leased, or that the unit is larger than appropriate, the Owner shall refer to the Grantee's written policies regarding family size, unit transfers and waitlist management. Rental Assistance Payments with respect to the assisted unit will not be reduced or terminated until the eligible family has been transferred to an appropriate size assisted unit. The Grantee should be notified of any changes in family size.

§ PRA.405 Uniform Physical Conditions Standards.

Owners of Eligible Multifamily Properties with regard to the Assisted Units and related facilities shall comply with the Physical Condition Standards and Inspection Requirements of 24 CFR part 5, Subpart G, including any changes in the regulation and related Directives. In addition, the Owner shall comply with HUD's Physical Condition Standards of Multifamily Properties of 24 CFR part 200, Subpart P, including any changes in the regulation and related Directives.

§ PRA.406 Reviews During Management Period.

(a) Prior to occupancy of any Assisted Unit by an Eligible Family, the Eligible Family or their representative (b) must be given the opportunity to be present for the move-in unit inspection. The inspection of the Assisted Unit would be completed by both the Owner and the Eligible Family and both shall certify, on a form prescribed or approved by the Grantee, that they have inspected the Assisted Unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the form. The Owner shall keep a copy of this inspection and make part of the lease as an attachment to the lease. If the Eligible Family waives the right to this inspection, a form prescribed or approved by the Grantee would be signed by the Eligible Family indicating they have waived this right.

(c) The Owner shall perform unit inspections of the Assisted Units on at least an annual basis to determine whether the appliances and equipment in the unit are functioning properly and to access whether a component

needs to be repaired or replaced. This will ensure that the Owner is meeting its obligation to maintain the Assisted Units in Decent, Safe, and Sanitary condition.

(d) In addition to annual Owner inspections described in paragraph b above, after the effective date of the RAC, a physical inspection pursuant to Uniform Physical Condition Standards (UPCS) must also be performed of the Assisted Units and related facilities at a frequency that conforms to the property's other existing federal or state housing programs, but at least every 3 years, and at such other times as may be necessary. If multiple federal or state housing programs are layered at the property, the frequency of the physical inspection shall be determined by the most stringent UPCS standard, with a minimum of every 3 years.

(e) In addition:

- (1) HUD may review the Grantee's records as related to the RAC at least annually to determine whether the Grantee is in compliance with the RAC;
- (2) HUD may independently inspect project operations and Assisted Units at any time with reasonable notice prior to inspection; and
- (3) Equal Opportunity reviews may be conducted by HUD at any time.

§ PRA.407 Barrier Free/Accessibility Requirements for Units, Buildings, and Facilities, Including Public and Common Use Areas.

Owners must meet accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8 and as applicable, Title III of the Americans with Disabilities Act and implementing regulations at 28 CFR part 36. Covered multifamily dwellings as defined in 24 CFR part 100 must also meet the design and construction requirements of the Fair Housing Act. 24 CFR part 100. However, Assisted Units can consist of a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.

§ PRA.408 Compliance with Fair Housing and Civil Rights Laws

Owners must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title III of the Americans with Disabilities Act; and Section 109 of the Housing and Community Development Act of 1974. Owners must also comply with HUD's Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity requirements. See HUD's Equal Access rules at 24 C.F.R. §§ 5.100, 5.105(a)(2), 5.403 and HUD's final rule published in the *Federal Register* at 77 Fed. Reg. 5662, "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity."

If the Owner is in a state or jurisdiction that has also passed a law or laws proscribing discrimination in housing based upon sexual orientation or gender identity, or a law or laws proscribing discrimination in housing based on lawful source of income, the Owner must comply with those laws of the states or localities in which the programs or activities are conducted.

§ PRA.409 Tenant Organization Rights

Owner shall not impede the reasonable efforts of tenants of the Assisted Units to organize pursuant to 24 CFR part 245, or any successor regulations of 24 CFR part 245, or unreasonably withhold the use of any community room or other available space appropriate for meetings which is part of the mortgaged property when requested by: (i) a resident tenant organization in connection with the representational purposes of the organization; or (ii) tenants seeking to organize or to consider collectively any matter pertaining to the operation of the mortgaged property.

§ PRA.410 Effective Communications

Owners must ensure that all communications are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 (see 24 CFR § 8.6) and, as applicable, the Americans with Disabilities Act.

§ PRA.411 Executive Order 13166

Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency (LEP),” seeks to improve access to federally assisted programs and activities for individuals who, as a result of national origin, are limited in their English proficiency. Owners shall take reasonable steps to ensure meaningful access to their programs and activities to LEP individuals.

Exhibit 8

Tenant Selection Plan Addendum

Exhibit 8, the Tenant Selection Plan Addendum ("TSP Addendum"), is not attached but it hereby incorporated by reference with the same force and effect as though fully set forth herein. The TSP Addendum can be found on the Ohio Housing Finance Agency (OHFA) Web site at ohiohome.org/811pra.

Exhibit 9

Owner and Property Manager Manual

Exhibit 9, the Owner and Property Manager Manual, is not attached but it hereby incorporated by reference with the same force and effect as though fully set forth herein. The Owner and Property Manager Manual can be found on the Ohio Housing Finance Agency (OHFA) Web site at ohiohome.org/811pra.

Exhibit 9 of the Cooperative Agreement

Part II of the Rental Assistance Contract

Section 811 Project Rental Assistance
Demonstration (PRA Demo)

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

PRA Demo Project Number:	811 PRA Demo Contract Number:	FHA Project Number (if applicable):
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2.1 OWNER'S RESPONSIBILITIES AND OWNER'S WARRANTIES.

(a) **Owner Responsibilities.** The owner is responsible for:

- (1) Performing all management and rental functions for the contract units.
- (2) Enforcing tenant obligations under the lease.
- (3) Paying for utilities and housing services (unless paid by the family under the lease).
- (4) Collecting from the tenant:
 - (i) Security Deposit, if applicable.
 - (ii) The tenant rent.
 - (iii) Any charge for unit damage by the family allowed by state and federal law.

(b) **Owner Warranties**

- (1) **Legal Capacity.** The Owner warrants that it has the legal right to execute this Contract and to lease Assisted Units covered by this Contract.
- (2) **Completion of Work.** The Owner warrants that the project as described in section 1.1 is Decent, Safe and Sanitary and, if applicable, that the Assisted Units comply with the terms and conditions of the Agreement to Enter into the Rental Assistance Contract.

2.2 FAMILIES TO BE HOUSED; GRANTEE ASSISTANCE.

(a) **Families to Be Housed.** The Assisted Units are to be leased by Eligible Families solely as private dwellings and as their principal place of residence. (See also section 2.8.) Families to be housed must be consistent with the Grantee's Cooperative Agreement, including Grantee's Program Description (as contained in Exhibit 4 of the Cooperative Agreement), and Grantee's Inter-Agency Partnership Agreement.

(b) **Grantee Assistance.**

- (1) The Grantee agrees to make Rental Assistance Payments on behalf of Eligible Families for the Assisted Units, to enable the Eligible Families to lease Decent, Safe, and Sanitary housing pursuant to Section 811 of the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 8013, as amended by the Frank Melville Supportive Housing Investment Act of 2010, Pub. L. No. 111-374 and the applicable HUD administrative and regulatory requirements.

- (2) If there is a Utility Allowance and if the Utility Allowance exceeds the total Eligible Family contribution, the Owner shall pay the Eligible Family or the appropriate entity the amount of the excess. The Grantee will pay funds to the Owner in trust solely for the purpose of making this payment. Any pledge by the Owner of payments properly payable under this Contract shall not be construed to include payments covered by paragraph (b)(2) of section 2.2.

2.3 MAXIMUM HOUSING ASSISTANCE COMMITMENT; PROJECT ACCOUNT.

- (a) **Maximum Annual Contract Commitment.** The Grantee shall not make any Rental Assistance Payments in excess of the amount identified in section 1.1(c) and Exhibit 1, Part I of the RAC, unless Grantee, at its discretion, approves Owner's request to adjust the amount of Rental Assistance Payments in cases where the Rental Assistance Payments are inadequate to provide for reasonable operating costs for the Assisted Units.

The Grantee may reduce the amount identified in section 1.1(c) where there is a reduction in the number of Assisted Units, in the Contract Rents or pursuant to any other provision of this Contract.

2.4 PROJECT RENTAL ASSISTANCE PAYMENTS TO OWNERS.

- (a) **Rental Assistance Payments on Behalf of Families.**
- (1) Rental Assistance Payments shall be paid to the Owner for Assisted Units under lease for occupancy by Eligible Families in accordance with the Contract as attached in Exhibit 1, Part I of the RAC. The Rental Assistance Payments will cover the difference between the Contract Rent and that portion of the rent payable by the Eligible Family as determined in accordance 24 CFR part 5 and other applicable administrative and regulatory requirements.
- (2) The amount of Project Rental Assistance Payments payable on behalf of the Eligible Family and the amount of rent payable by the Eligible Family shall be subject to change by reason of changes in Eligible Family Income, Eligible Family composition, or pursuant to any HUD regulations or administrative guidance related to the Assisted Units; or by reason of a change in any applicable Utility Allowance, as approved or required by the Grantee. Any such change shall be effective as of the date stated in a notification of the change to the Eligible Family, which need not be at the end of the Lease Term.
- (b) **Vacancies During Rent-Up.** Grantees can determine whether to include payment of vacancies in its Project Rental Assistance program. If the Grantee decides to provide vacancy payments, for each Assisted Unit that is not leased as of the effective date of this contract, the Owner is entitled to vacancy payments that may not exceed 80 percent of the Contract Rent for up to 60 days of vacancy, provided that the Grantee/Owner: (1) commences and performs appropriate feasible actions to fill the vacancy, consistent with Grantee's PRA program and otherwise complied with section 2.2 of the Agreement, and (2) has not rejected any eligible applicants, except for good cause acceptable to the Grantee.
- (c) **Vacancies after Rent-Up.** If an Eligible Family vacates an Assisted Unit and the Grantee program includes vacancy payments, the Owner is entitled to Rental Assistance Payments (except as provided in paragraph (d) of this section) that may not exceed 80 percent of the Contract Rent for up to 60 days of vacancy if the Owner:
- (1) Certifies that it did not cause the vacancy by violating the lease, the Contract or any applicable law;
- (2) Notified the Grantee of the vacancy or prospective vacancy and the reasons for it immediately upon learning of the vacancy or prospective vacancy;
- (3) Has fulfilled and continues to fulfill the requirements under this Contract; and
- (i) Commence and perform appropriate feasible actions to fill the vacancy, consistent with the Grantee's PRA program; and

- (ii) Has not rejected any eligible applicant, except for good cause acceptable to the Grantee.
- (4) Certifies that any eviction of an Eligible Family resulting in a vacancy was carried out in compliance with section 2.9.
- (d) **Vacancies for Longer than 60 Days.** If an Assisted Unit continues to be vacant for more than 60 consecutive days either during rent-up or after rent-up the Owner shall not be entitled to any payments under 2.4(b)-(c). Grantee and Owner shall comply with any administrative requirements imposed by HUD as related to vacancies for the Section 811 Project Rental Assistance program.
- (e) **Grantee Not Obligated for the Eligible Family's Rent.** The Grantee has not assumed any obligation for the amount of rent payable by any Eligible Family or the satisfaction of any claim by the Owner against any Eligible Family other than in accordance with section 2.4 of this Contract. The financial obligation of the Grantees is limited to making Project Rental Assistance Payments on behalf of Eligible Families in accordance with this Contract.
- (f) **Owner's Monthly Requests for Payments.**
 - (1) The Owner shall submit monthly requests to the Grantee or as directed by the Grantee for Rental Assistance Payments. Each request shall set forth: (i) the name of each Eligible Family and the address and/or number of the unit leased by the Eligible Family; (ii) the address and/or the number of each unit, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth for each unit for which the Owner is claiming payments as listed in (1) Exhibit 1, Part I of the RAC for the initial year, and (2) the Grantee approved Rent Schedule (form HUD-92458) for subsequent years; (iv) the amount of rent payable by the Eligible Family leasing the unit; and (v) the total amount of Rental Assistance Payments requested by the Owner.
 - (2) Each of the Owner's monthly requests shall contain a certification by it that to the best of its knowledge and belief (i) the Assisted Units are in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, (iv) none of the amount claimed has been previously claimed or paid under this Contract, and (v) the Owner has not received and will not receive any payments or other consideration from the Eligible Family, the Grantee, HUD, or any other public or private source for the Assisted Unit beyond that authorized in this Contract and the lease.
 - (3) If the Owner has received an excessive payment, the Grantee, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.
 - (4) The Owner's monthly requests for Rental Assistance Payments are subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

2.5 MAINTENANCE, OPERATION AND INSPECTION.

- (a) **Maintenance and Operation.** The Owner agrees to maintain and operate the Assisted Units and related facilities in a Decent, Safe, and Sanitary condition in accordance with the requirements in 24 CFR part 5, subpart G including the provision of all the services, maintenance and utilities set forth in section 1.1(e). The Owner also agrees to comply with the lead-based paint regulations at 24 CFR part 35. If the Grantee determines that the Owner is not meeting one or more of these obligations, the Grantee shall have the right to take action under section 2.19(b).

(b) **Inspection.**

- (1) Prior to occupancy of any Assisted Unit by an Eligible Family, the Eligible Family must be given the opportunity to be present for the move-in unit inspection. The inspection of the Assisted Unit would be completed by both the Owner and the Eligible Family and both shall certify, on a form prescribed or approved by the Grantee that they have inspected the Assisted Unit and have determined it to be Decent, Safe, and Sanitary condition in accordance with the criteria provided in the form. The Owner shall keep a copy of this inspection and make part of the lease as an attachment to the lease. If the Eligible Family waives the right to this inspection, a form prescribed or approved by the Grantee would be signed by the Eligible Family indicating they have waived this right.
 - (2) The Owner shall perform unit inspections of the Assisted Units on at least an annual basis to determine whether the appliances and equipment in the unit are functioning properly and to assess whether a component needs to be replaced or repaired. This will ensure that the Owner is meeting its obligation to maintain the Assisted Units in Decent, Safe, and Sanitary condition.
 - (3) In addition to annual Owner inspections described in 2.5(b)(2) above, a physical inspection pursuant to Uniform Physical Condition Standards (UPCS) must also be performed of the Assisted Units and related facilities at a frequency that conforms to the property's other existing federal or state housing programs, but at least every 3 years, and at such other times as may be necessary. If multiple federal or state housing programs are layered at the property, the frequency of the physical inspection shall be determined by the most stringent UPCS standard, with a minimum of every 3 years.
- (c) **Units Not Decent, Safe, and Sanitary.** If the Grantee notifies the Owner that it has failed to maintain an Assisted Unit in a Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the Grantee may exercise any of its rights or remedies under the Contract, including reduction or suspension of Rental Assistance Payments.
- (d) **Notification of Abatement.** Any reduction or suspension of Rental Assistance Payments shall be effective as provided in written notification to the Owner. The Owner shall promptly notify the Eligible Family of any such abatement.
- (e) **Overcrowded and Underoccupied Units.** Where the Grantee determines a unit is larger or smaller than appropriate for an Eligible Family, the Owner agrees to correct the situation in accordance with PRA Program requirements and HUD guidelines in effect at the time of the determination.
- (f) **Accessibility Requirements.** The Owner agrees to maintain the Assisted Units and related facilities in compliance with the following accessibility requirements as applicable at the time of construction or rehabilitation: The Uniform Federal Accessibility Standards at 24 CFR 40.7, section 504 of the Rehabilitation Act of 1973 as implemented by 24 CFR part 8, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100.

2.6 FINANCIAL REQUIREMENTS.

The Grantee is required to submit to HUD audited annual financial statements that comply with the requirements of OMB Circular A-133. The Grantee shall establish control measures with the Owner to meet the Grantee's financial requirements. The Owner agrees to the Grantee's control measures.

2.7 INITIAL RENTS; RENT ADJUSTMENTS; UTILITY ALLOWANCE.

- (a) With respect to the initial rents, Grantee and Owner agrees that in no circumstance may the initial RAC rent level exceed the applicable Section 8 Fair Market Rent (FMR) level as determined by HUD, unless such rent level is substantiated by a market study that has been prepared in accordance with the requirements of a state housing

agency, Chapter 9 of HUD's Section 8 Renewal Guide or as approved by HUD. In cases where the initial RAC rent level exceeds applicable Fair Market Rent, Exhibit 1 shall identify how the initial rent settings were determined, as approved by HUD.

(b) **Annual Adjustments.**

(1) After initial rent setting made in the first year of the Contract, subsequent rents shall be adjusted annually based on [CHECK ONE BOX ONLY]:

HUD's Operating Cost Adjustment Factor (OCAF).

Other operating cost index as has been adopted by the Grantee for purposes of subsidizing affordable housing, as approved by HUD and as further described in Exhibit 2.

Other means as may be approved by HUD, and as further described in Exhibit 2.

(2) Upon request from the Owner to the Grantee, Contract Rents will be adjusted on the anniversary date of the Contract in accordance with this Contract. Within the first year of the Contract and with approval from HUD, the Owner may request to align their Contract anniversary date with the existing federal or state housing programs layered at the property.

(3) Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the annual adjustment result in Contract Rents less than the Contract Rents on the effective date of the Contract.

(c) **Funding of Adjustments.** Rental Assistance Payments will be made in amounts commensurate with Contract Rent adjustments under this section up to the maximum amount authorized under section 2.3(a) of this Contract.

(d) **Overall Limitation.** Notwithstanding any other provision of this Contract, adjustments after Contract execution shall not result in higher rents charged for Assisted Units as compared to the unassisted units, as determined by Grantee.

(e) **Incorporation of Rent Adjustment.** Any adjustment in Contract Rents shall be incorporated into a Rental Schedule (form HUD-92458) establishing the effective date of the adjustment.

(f) **Utility Allowance.**

(1) If there is a utility allowance, the utility analysis methodology shall be reviewed and if needed adjusted annually based on [CHECK ONE BOX ONLY AND ATTACH UTILITY POLICY IN EXHIBIT 2]:

HUD Multifamily Housing Policy

Public Housing Authority Policy

Rural Housing Services (RHS) Policy

State or Local Housing Agency

Other means as may be approved by HUD, and as further described in Exhibit 2

2.8 LEASING OF UNITS.

- (a) **Compliance with Equal Opportunity Requirements.** Projects shall be managed and in accordance with all applicable EEO requirements.
- (b) **Security Deposits.**
- (1) The Owner may collect a security deposit from the family.
 - (2) The Owner must comply with HUD Security Deposit 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 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.
- (c) **Eligibility, Selection and Admission of Families.**
- (1) The Owner shall be responsible for the screening of Eligible Families in accordance with a grantee-approved tenant selection plan, from among those referred to the Owner by the Grantee or their designee. Additionally, Owner shall be responsible for the determination of income eligibility of applicants, computation of the amount of Rental Assistance Payments on behalf of each selected Eligible Family and of total Eligible Family contributions and recordkeeping in accordance with applicable HUD regulations and requirements.
 - (2) The Owner shall not charge any Eligible Family any amount in excess of the total Eligible Family contribution.
 - (3) The Owner must lease Assisted Units only to Eligible Families. The Owner must inform the Grantee or their designee of a vacancy and hold the unit open for a reasonable period of time. If no Eligible Tenants are identified within a reasonable period of time, as determined by the Grantee, the Owner may lease the unit to families which are not eligible for the PRA Program; this household is not entitled to the benefit of the rental assistance. If the number of occupied PRA Assisted Units at the property falls below the Total Number of Assisted Units listed in Exhibit 1 of Part I of the RAC, the Owner will designate the next available appropriate unit as an Assisted Unit until the total number of occupied PRA Assisted Units meets the Total Number of Assisted Units listed in Exhibit 1 or Part I of the RAC.
 - (4) The Lease entered into between the Owner and the Eligible Family shall be on the form as prescribed by HUD.
 - (5) (i) The Owner shall make a reexamination of Eligible Family income, composition, and the extent of medical or other unusual expenses incurred by the Eligible Family at least annually, and appropriate redeterminations shall be made by the Owner of the amount of Eligible Family contribution and the amount of Rental Assistance Payment, in accordance with applicable HUD regulations and requirements.

(ii) If an Eligible Family reports a change in income or other circumstances that would result in a decrease/increase of total Eligible Family contribution between regularly scheduled reexaminations, the Owner, upon receipt of verification of the change, must promptly make appropriate adjustments in the total Eligible Family contribution.

(iii) An Eligible Family's eligibility for Rental Assistance Payments continues until the total Eligible Family contribution equals the total housing expense for the unit it occupies. The termination of availability at this point will not affect the Eligible Family's other rights under the lease nor preclude resumption of payments as a result of later changes in income or other circumstances during the term of this Contract.

(6) The Owner shall maintain as confidential all information relating to PRA Demo applicants and Eligible Families, the disclosure of which would constitute an unwarranted invasion of personal privacy.

- (d) **Rent Redetermination after Adjustment in Utility Allowance.** Consistent with section 2.7 and any HUD administrative requirements related to Utility Allowance, Owner agrees to adjust the rents of assisted Eligible Families in cases where there is a Utility Allowance adjustment.
- (e) **Processing of Applications and Complaints.** The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable Grantee requirements and shall maintain records and furnish such copies or other information as may be required by HUD or the Grantee.
- (f) **Review: Incorrect Payments.** In making Rental Assistance Payments to Owners, the Grantee will review the Owner's determinations under this section. If as a result of reviews, audits or information received by the Grantee, it is determined that the Owner has received improper or excessive Rental Assistance Payments, the Grantee shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery.

2.9 TERMINATION OF TENANCY OR PRA DEMO RENTAL ASSISTANCE BY THE OWNER.

The Owner agrees not to terminate any tenancy of or assistance on behalf of an assisted Eligible Family except in accordance with the lease, all applicable HUD regulations and other requirements in effect at the time of the termination, and any State and local law.

2.10 NONDISCRIMINATION.

- (a) **General.** The Owner shall not in the selection of Eligible Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, handicap, familial status, or national origin.
- (b) **The Fair Housing Act.** The Owner shall comply with all requirements imposed by the Fair Housing Act, which prohibits discrimination in the sale, rental, financing and advertising of housing on the basis of race, color, religion, sex, handicap, familial status, or national origin, and any related rules and regulations.
- (c) **Title VI of the Civil Rights Act of 1964 and Executive Order 11063.** The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d. et seq.; the HUD Regulations issued thereunder, 24 CFR, Subtitle A, Part 1; the HUD requirements pursuant to these regulations; and Executive Order 11063 and any regulations and requirements issued thereunder, to the end that, in accordance with that Act, Executive Order 11063, and the regulations and requirements of HUD, no person in the United States shall, on the grounds of race, color, creed, or national origin, be excluded from participation in, or be denied the benefits of, the Rental Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of HUD, 24 CFR, Subtitle A, Part 1 issued under Title VI of the Civil Rights Act of 1964, HUD regulations issued pursuant to Executive Order 11063 and the HUD requirements pursuant to the regulations. The obligation of the

Owner to comply therewith inures to the benefit of the United States of America, HUD, any of which shall be entitled to invoke any remedies available by law to redress any breach or to compel compliance by the Owner.

- (d) **Section 504 of the Rehabilitation Act of 1973.** The Owner shall comply with all the requirements imposed by section 504 of the Rehabilitation Act of 1973, as amended, and any related rules and regulations. Section 504 provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance. Accordingly, the Owner shall not discriminate against any qualified handicapped person on the basis of handicap.
- (e) **Employees of Owner.**
- (1) In carrying out the obligations under this Contract, the Owner will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, handicap, familial status, or national origin. The Owner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, handicap, familial status, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- (2) The Owner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this nondiscrimination clause. The Owner will in all solicitations or advertisements for employees placed by or on behalf of the Owner state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, handicap, familial status, or national origin.

2.11 COOPERATION IN EQUAL OPPORTUNITY COMPLIANCE REVIEWS.

The Owner and the Grantee agree to cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to or permitted by all applicable civil rights statutes, Executive Orders, and rules and regulations.

2.12 FLOOD INSURANCE.

Flood insurance is required in areas designated by FEMA's Flood Insurance Rate Maps as the 100-year floodplain. If flood insurance is required, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance under the National Insurance Program in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.13 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT.

In compliance with regulations issued by the Environmental Protection Agency (EPA), 40 CFR part 15, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees to:

- (a) Not utilize any facility in the performance of this Contract or any nonexempt subcontractor which is listed on the EPA List of Violating Facilities pursuant to section 15.20 of the regulations;

- (b) Promptly notify the Grantee of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;
- (c) Comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 of the Air Act and section 308 of the Water Act, and all regulations and guidelines issued thereunder; and
- (d) Include or cause to be included the provisions of this Contract in every nonexempt subcontract, and take such action as HUD may direct as a means of enforcing such provisions.

2.14 REPORTS AND ACCESS TO PREMISES AND RECORDS.

- (a) The Owner shall furnish any information and reports pertinent to this Contract as reasonably may be required from time to time by HUD and the Grantee.
- (b) The Owner shall permit HUD and the Grantee or any of their duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the Rental Assistance Payments.

2.15 DISPUTES.

- (a) Grantee's determinations with respect to the Assisted Units which are consistent with this Agreement and any applicable HUD requirements will generally not be overturned by HUD. Grantee and Owner are encouraged to resolve disputes through negotiations and mediation, if necessary. However, in the event a dispute may lead to potential default by either party resulting from an ambiguity under this Agreement, the Grantee and the Owner may submit to HUD a request for clarification of the contract term(s) or utilize an alternative dispute resolution process agreed to by both parties and implemented consistent with this section of the RAC. Grantee and the Owner shall explain in writing the underlying facts and the contract term(s) in dispute. HUD shall review the inquiry and: (i) agree that a contract term ambiguity exists and make a final determination on the matter; or (ii) conclude no contract term ambiguity exists or conclude the dispute is outside the scope of HUD review and make no determination as to the issue(s) presented.
- (b) The decision of the HUD will not be reviewable unless, within 30 calendar days from the date of receipt of the HUD determination, either party mails or otherwise furnishes to the Secretary of Housing and Urban Development a written appeal with written justification. Both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of HUD pending resolution of the appeal.

2.16 INTEREST OF MEMBERS, OFFICERS, OR MEMBERS OF LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS:

- (a) No person or entity in the following clauses shall have an interest, direct or indirect, in this Agreement or in any proceeds or benefits arising from it, during his or her tenure or for one year thereafter.
 - (1) any member or officer of the Grantee, except where his or her interest is as a tenant;
 - (2) (i) any employee of the Grantee who formulates policy or influences decisions with respect to the PRA Demo project;
(ii) any other employee of the Grantee, except where his or her interest is as a tenant;
 - (3) any member of the governing body or the executive officer of the locality (city or county) in which the project is situated;

- (4) any member of the governing body or executive officer of the locality (city or county) in which the Grantee was activated;
 - (5) any other State or local public official (including State legislators), who exercise any functions or responsibilities with respect to the PRA Demo project;
 - (6) any Grantee, where any of its members, officers, or employees has a personal interest in the project (except an employee who does not formulate policy or influence decisions with respect to the PRA Demo project may have an interest as a tenant).
- (b) Members of the classes described in paragraph (a) who involuntarily acquire an interest in the PRA Demo program or in a PRA Demo project, or who had acquired prior to the beginning of their tenure any such interest, must disclose any interest or perspective interest to the Grantee and the HUD Headquarters and may, with appropriate justification, if consistent with State law, apply through the Grantee for a waiver. The Grantee will review the waiver request and forward their recommendation to HUD Headquarters.
- (c) No person to whom a waiver is granted shall be permitted (in his or her capacity as member of a class described in paragraph (a)) to exercise responsibilities or functions with respect to an Agreement or a Contract executed, or to be executed, on his or her behalf, or with respect to an Agreement or a Contract to which this person is a party.
- (d) The provisions of paragraphs (a) through (c) of this section shall not apply to a utility service if the rates are fixed or controlled by a governmental agency.

2.17 INTEREST OF MEMBER OR DELEGATE TO 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 this Contract or to any benefits which may arise from it.

2.18 ASSIGNMENT, SALE OR FORECLOSURE.

- (a) The Owner agrees that it has not made and will not make any sale, assignment, or conveyance or transfer in any fashion, of this Contract, without the prior written consent of Grantee which shall not be unreasonably withheld.
- (b) The Owner and the party signing this Contract on behalf of the Owner represent that they have the authority of all of the parties having ownership interests in the Owner to agree to this provision on their behalf and to bind them with respect to it.
- (c) Except where otherwise approved by Grantee, this Contract shall continue in effect and Rental Assistance Payments will continue in accordance with the terms of the Contract in the event:
 - (1) Of assignment, sale, or other disposition of the project or this Contract,
 - (2) Of foreclosure, including foreclosure by HUD,
 - (3) Of assignment of the mortgage or deed in lieu of foreclosure,
 - (4) The Grantee or HUD takes over possession, operation or ownership,

2.19 DEFAULTS BY GRANTEE AND/OR OWNER.

- (a) **Rights of Owner if Grantee Defaults under Contract.**
 - (1) Events of Default. The occurrence of any of the following events constitutes a default:
 - (i) If the Grantee fails to perform or observe any term or condition of this Contract;

- (ii) If the Contract is held to be void, voidable, or ultra vires;
 - (iii) If the power or right of the Grantee to enter into the Contract is drawn into question in any legal proceeding.
- (2) **Owner Request for HUD Determination of Default.** If the Owner believes that an event as specified in paragraph (a)(1) has occurred, and the Owner is not in default, the Owner may, within 30 days of the initial occurrence of the event:
- (i) Notify HUD of the occurrence of the event;
 - (ii) Provide supporting evidence of the default and of the fact that the Owner is not in default; and
 - (iii) Request HUD to determine whether there has been a default.
- (3) **HUD Determination of Default and Curing of Default.** HUD, after notice to the Grantee giving it a reasonable opportunity to take corrective action, or to demonstrate that it is not in default, shall make a determination whether the Grantee is in default and whether the Owner is not in default. If HUD determines that the Grantee is in default and that the Owner is not, HUD shall take appropriate action to require the Grantee to cure the default. If necessary for the prompt continuation of the project, HUD may assume the Grantee's rights and obligations under the Contract. HUD may, subject to appropriations and its ability to recover funds from the Grantee, pay Rental Assistance Payments with respect to the Assisted Units in accordance with this Contract until reassigned to another Grantee or returned to the original Grantee under this Agreement. All rights and obligations of the Grantee assumed by HUD will be returned to the same or another Grantee:
- (i) when HUD is satisfied that all defaults have been cured and that the Assisted Units will thereafter be administered in accordance with all applicable requirements, or
 - (ii) when the Contract is at an end, whichever occurs sooner.
- (4) **Enforcement by Owner.** The provisions of this paragraph (a) are made for the benefit of the Owner and the Owner's other assignees, if any, who have been specifically approved by HUD prior to the assignment. These provisions shall be enforceable by these parties against HUD by suit at law or in equity.
- (b) **Rights of Grantee and HUD if Owner Defaults under Contract.**
- (1) **Events of Default.** A default by the Owner under this Contract shall result if:
- (i) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease, including failure to correct any deficiencies identified by the Grantee in connection with any inspection;
 - or
 - (ii) The Owner has asserted or demonstrated an intention not to perform some or all of its obligations under this Contract or under any Lease.
- (2) **Grantee Determination of Default.** Upon a determination by the Grantee that a default has occurred, the Grantee shall notify the Owner of:
- (i) The nature of the default,
 - (ii) The actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default), and
 - (iii) The time within which the Owner shall respond with a showing that all the required actions have been taken.
- If the Owner fails to respond or take action to the satisfaction of the Grantee, the Grantee shall have the right to take corrective action to achieve compliance, in accordance with paragraph (b)(3) or take other corrective action to achieve compliance in its discretion, or as directed by HUD).
- (3) **Corrective Actions.** Pursuant to paragraph (b)(2) of this section the Grantee, in its discretion may take the following corrective actions:
- (i) Bring any action necessary to enforce any obligations of the Owner growing out of the project operation

- (ii) Apply to any court, State or Federal, for specific performance of this Contract, for an injunction against any violation of the Contract for such other relief as may be appropriate.
- (iii) Reduce or suspend Rental Assistance Payments.
- (iv) Recover any overpayments.

(4) HUD Rights.

- (i) Notwithstanding any other provisions of this Contract, in the event HUD determines that the Owner is in default of its obligations under the Contract, HUD shall notify Grantee, who shall take action on behalf of HUD. In the event that the Grantee does not take appropriate action as determined by HUD, HUD shall have the right, after notice to the Owner, the trustee, if any, and the Grantee giving them a reasonable opportunity to take corrective action, to proceed in accordance with paragraph (b)(3).
- (ii) In the event HUD takes any action under this section, the Owner and the Grantee hereby expressly agree to recognize the rights of HUD under this Contract to the same extent as if the action(s) were taken by the Grantee.

- (c) **Remedies Not Exclusive and Non-Waiver of Remedies.** The availability of any remedy under this Contract shall not preclude the exercise of any other remedy under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be considered a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.20 LEGAL RELATIONSHIP

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

Exhibit 1: Initial Rent Setting Methodology, where applicable. [Exhibit 1 is not required if the initial RAC rent level does not exceed the applicable Section 8 Small Area Fair Market Rent or Fair Market Rent (FMR) level as determined by HUD.]

Exhibit 2: Explanation of Rent Adjustments and/or attachment of Utility Allowance Policy Under Section 2.7, where applicable.

Part G – Information on Mortgagor Entity

Name of Entity

Type of Entity

- Individual General Partnership Joint Tenancy/Tenants in Common Other (specify)
- Corporation Limited Partnership Trust

List all Principals Comprising Mortgagor Entity: provide name and title of each principal. Use extra sheets, if needed. If mortgagor is a:

- corporation, list: (1) all officers; (2) all directors; and (3) each stockholder having a 10% or more interest.
- partnership, list: (1) all general partners; and (2) limited partners having a 25% or more interest in the partnership.
- trust, list: (1) all managers, directors or trustees and (2) each beneficiary having at least a 10% beneficial interest in the trust.

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

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Name and Title

Name and Title

Part H – Owner Certification

To the best of my knowledge, all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name and Title	Authorized Official's Signature
	Date (mm/dd/yyyy)

Part I – HUD/Lender Approval

Addendum Number	Branch Chief/Lender Official Signature
HAP Contract Number OH16RDD13XX	Date (mm/dd/yyyy)
Exhibit Number	Director, Housing Management Division Signature
Loan Servicer Signature Date (mm/dd/yyyy)	Date (mm/dd/yyyy)

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information is authorized under Section 207 of the National Housing Act. The information is necessary for the Department to ensure that project owners are not overcharging their tenants and to ensure that the rent levels approved by the Department are not exceeded. The Department uses this information to enforce rent regulations which otherwise would be difficult because there would be no clear record of the rents and charges that the Department had approved. In addition, the Department needs to periodically collect information regarding project principals, so unauthorized participation by previously excluded or otherwise undesirable owners can be detected. This information is required to obtain benefits. HUD may disclose certain information to Federal, State, and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law.

Instructions

All project owners must submit the form HUD-92458 when requesting an adjustment to project rents. HUD establishes and approves rental charges and utility allowances on the Form. The owner is responsible for notifying tenants of the approved rents.

General. For projects with fully-insured or HUD-held mortgages, the owner/agent submits this Form to the HUD Field Office. For projects with coinsured mortgages, the owner/agent submits this Form to the lender.

Part A. If the monthly rent potential you are proposing is less than or equal to the Maximum Allowable Monthly Rent Potential approved by HUD/lender on your original Rent Formula or on your most recent Rent Computation Worksheet, complete all of Part A according to the instructions below. If the monthly rent potential you are requesting exceeds the Maximum Allowable Monthly Rent Potential approved by HUD/lender on your original Rent Formula or on your most recent Rent Computation Worksheet, complete only Columns 1 and 2 according to the instructions below. Show your proposed rents and monthly rent potential in the cover letter transmitting your rent increase request.

Column 1. Show each type of unit for which rents will vary. Show the number of bedrooms and bathrooms and other features that cause rents to vary (e.g., 2 BDM, 1 B, DA, KETTE, vs 2 BDM, 2B, DR, K). Use the following symbols:

BDM	- Bedroom	LR	- Living Room
B	- Bath	DR	- Dining Room
K	- Kitchen	DA	- Dining Alcove
KETTE	- Kitchenette		

Column 2. Show the number of units for each unit type. Include non-revenue producing units.

Column 3. For unsubsidized projects, show the rent you intend to charge for each unit type. For subsidized projects, show the contract rent (as defined in HUD Handbook 4350.3) for each unit type.

Column 4. For each line, multiply the contract rent in Column 3 by the number of units in Column 4. Add monthly contract rent potentials for each unit size to compute the total monthly contract rent potential. Multiply the monthly total by 12 to compute the annual contract rent potential.

Columns 5 and 6. Complete the Columns only if the project has a subsidy contract with HUD and some utilities are not included in the rent. In Column 5, show the utility allowance for each unit type. Compute the gross rent for each unit type by adding the contract rent in Column 3 and the utility allowance in Column 5. Show this amount in Column 6.

Columns 7 and 8. Complete these Columns only if the project is receiving Section 236 Interest Reduction Payments. In Column 7, show the market rent for each unit type. In Column 8, for each line multiply the market rent in Column 7 by the number of units in Column 2. Add the monthly market rent potentials for each unit size to compute the total monthly market rent potential. Multiply the monthly total by 12 to compute the annual market rent potential.

Parts B, C, D and E. Complete these Parts according to the instructions on the Rent Schedule.

Part F. Do not complete this Part. The HUD Field Office/lender will complete this Part.

Parts G and H. Complete these Parts according to the instructions on the Rent Schedule.

Part I. Do not complete this Part. The HUD Field Office/lender will complete this part.