



HOUSING COMMISSION AGENDA
Regular Meeting: January 11, 2017
Time: 8:00 a.m.

HACA Board Room, 22941 Atherton Street, Hayward, CA 94541

The public is welcome at all Housing Commission meetings. If you wish to speak on a matter NOT on the Agenda, please file a Public Comment card with the Commission Clerk. Upon recognition by the Chairperson during Public Comment, state your name, comments and/or questions. Anyone wishing to address the Commission on an agenda item or on business introduced by the Housing Commission may do so when the Chairperson calls for comments on the agenda item. Please be brief and limit your comments to the specific subject under discussion. NOTE: Only matters within the Housing Commission's jurisdiction may be addressed.

To allow the opportunity for all to speak, a time limit of 3 minutes has been set for public speakers wishing to address the Housing Commission. The Chairperson has the discretion to further limit this time if warranted by the number of speakers.

The Housing Commission Secretary of the Housing Authority of the County of Alameda has, on Thursday, January 5, 2017, duly distributed this Agenda to the Clerk of the Board of Supervisors for posting in the office of the Alameda County Administration Building and has posted it on the bulletin board of the Housing Authority of the County of Alameda.

AMERICANS WITH DISABILITIES: In compliance with the Americans with Disabilities Act, if special assistance to participate in this meeting is needed, please contact the Housing Authority office at (510) 727-8511. Notification at least 48 hours prior to the meeting will enable the Housing Authority to make reasonable arrangements.

1. CALL TO ORDER / ROLL CALL

2. APPROVAL OF THE MINUTES OF THE NOVEMBER 9, 2016 MEETING

ACTION

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3. PUBLIC COMMENT - On matters not on the Agenda

4. NEW BUSINESS

4-1. Recognize Aimee Fisher as HACA's Shining Star for January-June 2017

PRESENTATION

7

4-2. Revisions to HACA'S PHA Plan for the Fiscal Year Beginning July 1, 2016

CANCELLED

8

(note: a public hearing was noticed for this item but no public hearing is required since the PHA Plan will not be revised)

4-3. HACA Section 8 Administrative Plan Policy Revisions

ACTION

9

4-4. HACA Section 8 Administrative Plan Policy Revision; Third Amendment to

ACTION

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Memorandum of Understanding between HACA and the Alameda County Behavioral Health Care Services Agency

4-5. Resolution Authorizing Conveyance of Mission Boulevard Office/Maintenance Facilities to PACH

ACTION

22

4-6. Ratification of Settlement Agreement with Colony Insurance Company for Emery Glen

ACTION

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4-7. Budget Status Report

INFORMATION

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4-8. Program Activity Report

INFORMATION

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5. COMMITTEE REPORTS

6. COMMISSIONER REPORTS

7. COMMUNICATIONS

8. ADJOURNMENT

MINUTES

November 9, 2016



**HOUSING COMMISSION MINUTES
REGULAR MEETING: NOVEMBER 9, 2016
HACA BOARD ROOM, 22941 ATHERTON STREET, HAYWARD, CA 94541**

SUMMARY ACTION MINUTES

1. CALL TO ORDER/ROLL CALL

Call to Order

Chairperson Gacoscos called the meeting to order at 8:03 a.m.

Roll Call

Present: Bacon, Biddle, Cox, Buckholz, Gacoscos, Gerry, Hannon, Iosefa, Peixoto and Steiner

Entered after Roll Call: Cmr. Maass

Excused: Cmr. Asher and Bacon

2. CLOSED SESSION

Conference with Legal Counsel - Existing Litigation - 2 Cases

World Priority LLC v. Housing Authority of the County of Alameda, Superior Court, State of California, County of Alameda, Case No. RG14752066

Philadelphia Indemnity Insurance Co. v. Housing Authority of the County of Alameda, Superior Court, State of California, County of Alameda, Case No. RG16820347

The Housing Commission adjourned into a closed session at 8:04 a.m. and reconvened in regular session at 8:24 a.m. Chairperson Gacoscos reported that there were no reportable actions taken in the closed session.

3. APPROVAL OF THE MINUTES OF THE SEPTEMBER 14, 2016 HOUSING COMMISSION MEETING

Recommendation: Approve the minutes of the September 14, 2016 Housing Commission meeting as presented.

Motion/Second: Hannon/Gerry.

Ayes: All

Motion passed. **APPROVED AS RECOMMENDED.**

4. PUBLIC COMMENT

None.

5-1. ACTION: REVISIONS TO HACA'S SECTION 8 ADMINISTRATIVE PLAN

Ron Dion, Deputy Director for Programs, presented the staff report. Mr. Dion reported that staff is proposing to amend HACA's Section 8 Administrative Plan in order to implement provisions of the Housing Opportunity through Modernization Act of 2015 (HOTMA) and to make a HACA policy change to the Veterans Affairs Supportive Housing (VASH) program. He summarized the proposed revisions to Admin Plan and recommended that the Commission approve them.

Recommendation: Approve the proposed amendments to HACA's Section 8 Administrative Plan as presented.

Motion/Second: Biddle/Hannon.

Ayes: All.

Motion passed. **APPROVED AS RECOMMENDED.**

5-2. INFORMATION: QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 30, 2016

Christine Gouig, Executive Director, presented the staff report. Report received with no questions or comments from the Housing Commission.

5-3. INFORMATION: BUDGET STATUS REPORT

Christine Gouig presented the staff report. Report received with no questions or comments from the Housing Commission.

5-4. INFORMATION: PROGRAM ACTIVITY REPORT

Christine Gouig presented the staff report. A handout with the essays and pictures of the posters created by the children of Family Self-Sufficiency (FSS) program participants for the NAHRO "What Home Means to Me" poster contest was distributed to the Housing Commission and to the public. Ms. Gouig explained that these posters were selected by HACA for submission to the regional NAHRO chapter and that the children were recognized at the annual FSS "It's Your Time to Shine" event that was held in November. Ms. Gouig thanked Cmr. Biddle and Steiner for attending the event. Ms. Gouig reported that FSS staff is preparing for the annual gift drive for the FSS program participants and that the FSS staff is accepting donations.

Commission Discussion: Cmr. Biddle commented that the speakers at the "It's Your Time to Shine" event were very inspirational. Cmr. Steiner commented that the stories shared by the program participants demonstrate how important the FSS program is. She praised the FSS staff for the encouragement and guidance that they provide to the program participants and stated that HACA's FSS program is exemplary. Cmr. Steiner encouraged the Commissioners to attend this event in 2017.

Chairperson Gacoscos and Ms. Gouig discussed how donations for the gift drive can be made. Chairperson Gacoscos thanked Cmr. Biddle and Steiner for attending the event.

6. COMMITTEE REPORTS

None.

7. COMMISSIONER REPORTS

Chairperson Gacoscos congratulated Cmr. Maass and Bacon on their re-election to their respective city councils.

Cmr. Hannon reported that a number of significant bond measures in various counties have passed that would benefit affordable housing in these communities and that it would be a good time to start thinking about forming new partnerships with developers and other housing advocates to promote affordable housing and secure alternative sources of funding.

8. COMMUNICATIONS

Ms. Gouig reported that she and Jennifer Cado, Senior Administrative Analyst, attended the grand opening of the Laguna Commons project in Fremont and that HACA was recognized for providing VASH Project-Based Vouchers to house 25 veterans. Ms. Gouig reported that HACA is working with Eden Housing on an affordable housing project for veterans in the City of Dublin. Cmr. Cox reported that Bridge Housing secured funding for additional senior units in a new housing development in the city of San Leandro. Ms. Gouig indicated that HACA will be providing PBVs for that project as well. Cmr. Steiner talked about a recent issue in the City of Pleasanton involving the zoning for a Costco in that city.

Ms. Gouig reported that staff submitted comments in opposition to HUD’s proposed rule for Small Area Fair Market Rents (SAFMR).

Ms. Gouig advised that she will let the Housing Commission know if the December meeting is cancelled.

Chairperson Gacoscos and Ms. Gouig discussed the City of Emeryville’s need to appoint a new representative to the Housing Commission since Cmr. Asher did not seek another term for the Emeryville City Council.

Cmr. Iosefa announced that this meeting would be her last as she is pursuing her Bachelor’s degree in public health. She thanked HACA and the Housing Commission for inspiring her to pursue her education in this field. Cmr. Iosefa commented that she has enjoyed her service as a Commissioner and thanked the staff and Housing Commission for all that they do. Chairperson Gacoscos thanked Cmr. Iosefa for her service. Mr. Dion thanked Cmr. Iosefa for her participation and work on the Resident Advisory Board (RAB).

8. ADJOURNMENT

There being no further business to discuss, Chairperson Gacoscos adjourned the meeting at 9:56 a.m.

Respectfully Submitted,

Melissa Taesali
Executive Assistant

Christine Gouig
Executive Director/Housing Commission Secretary

Approved:

Pat Gacoscos
Housing Commission Chairperson

NEW BUSINESS

January 11, 2017

HOUSING AUTHORITY OF ALAMEDA COUNTY

AGENDA STATEMENT

Meeting Date: January 11, 2017

Subject: Recognize Aimee Fisher as HACA's Shining Star for January-June 2017

Exhibits Attached: None

BACKGROUND

In 2006 the Housing Authority created a Communications Committee composed of staff from all departments. The Committee created an "Employee of the Quarter" recognition program to acknowledge exceptional individual contributions of HACA employees. At the end of 2011 the Committee decided to revamp the program to allow more time for chosen employees to enjoy their recognition. The Committee re-named the award "HACA's Shining Star" and extended the recognition period to six months, so there will be two Shining Stars per year.

DISCUSSION

The Housing Authority is privileged to have on its staff Aimee Fisher, an Eligibility Technician in the Programs Department. Her selection was announced at the HACA Holiday Celebration held on December 21, 2016. The comments below were submitted by those who nominated Aimee and describe Aimee's outstanding work in the following categories: Problem Solving, Acknowledgement from the Public, Co-workers and Clients, Team Effort & Flexibility in Working with Others, and Customer Service:

"As Interim Eligibility Leadworker, Aimee was very knowledgeable and extremely helpful especially when dealing with problematic cases forwarded to her. Despite her busy schedule, she always made herself available for the Eligibility team. She is a strong leader as well as an exceptional listener. She treats clients fairly and with compassion."

"Aimee has been such a big help as the temp lead worker. She is great at listening when you are having a problem and explaining the best way to work the situation as well as give examples of what she would do. She is great at getting answers and explaining the reason. Aimee's calm demeanor has made it easier to ask for help when it is needed and offer help as time allows. Her office door is always open to have a conversation with her about what needs to get done and how to do it. Aimee has fully embraced her temp position as Leadworker."

Staff recommends that your Housing Commission recognize Aimee Fisher as "HACA's Shining Star" for January-June 2017.

HOUSING AUTHORITY OF ALAMEDA COUNTY

AGENDA STATEMENT

Meeting Date: January 11, 2017

Subject: Revisions to HACA's PHA Plan for the Fiscal Year Beginning July 1, 2016
Public Hearing Cancelled

Exhibits Attached: None

A public hearing was noticed for this item but no public hearing is required since the PHA Plan will not be revised.

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: January 11, 2017

Subject: Section 8 Administrative Plan Policy Revisions to Chapters 4 and 17

Exhibits Attached: Attachment A: Redline Summary of Policy Revisions

Recommendation: Approve Proposed Policy Revisions

Financial Statement: None

BACKGROUND

HACA’s Section 8 Housing Choice Voucher Program (HCVP) Administrative Plan (Admin Plan) sets forth HACA’s policies for administering the Section 8 Program in a manner consistent with HUD requirements and HACA’s Agency Plan—its policies, programs, operations, and strategies for meeting local housing needs and goals. HACA’s Admin Plan is available for public review.

From time to time it becomes necessary to amend the Admin Plan in order to incorporate changed HUD regulations, revised HACA practices, program initiatives, or to make clarifications or corrections.

DISCUSSION and ANALYSIS

Staff is recommending changes to two chapters of the Section 8 Admin Plan: Chapter 4 and Chapter 17. Staff proposes changes to Chapter 4 to support the more efficient lease-up of vouchers while the changes to Chapter 17 are due to HUD regulatory amendments. The substantive changes in each chapter are described below and a red-line version of each is attached at “Attachment A.”

Chapter 4 – Completing the Application Process

HACA has HUD contract authority for 6,368 HCVP units. Over 100 of these units have remained unused month after month as the challenge of Voucher holders finding affordable housing in an overheated rental market is exacerbated by HACA’s multi-step application processing procedures that constrain the speed with which applications can be processed and applicants issued a Voucher. In order for HACA to accelerate putting its 100+ units of fallow housing assistance into use, it is proposed that some application processing steps be suspended for the remainder of the fiscal year. These steps are HACA-instituted; they are not required by HUD.

HACA AGENDA ITEM NO.: 4-3.

As for virtually all Bay Area Housing Authorities, HACA applicants issued Vouchers are finding it difficult to lease affordable housing. Currently, over 100 Vouchers remain unused as families struggle to find landlords willing to rent to them within HACA's payment standards. This situation persists, notwithstanding the 35% increase in Fair Market Rents that HACA was able to successfully justify to HUD last year.

The problem of Voucher holders finding affordable units in this rental market is exacerbated by HACA's multi-step application processing procedures that constrain the speed with which applications can be processed and applicants issued a Voucher. By Admin Plan policy, staff processes applications in order of verified priorities and preferences. Again by Admin Plan policy, staff returns applications determined to be ineligible for claimed preferences to the wait list where they remain until the verified preferences percolate them to the top.

Since March 2016, staff has mailed offers of Housing Choice Voucher assistance to 825 applicants. As of November 21, 2016, 415 (50.9%) of those 825 applicants responded to the offer by submitting their eligibility package to HACA—a response rate similar to that experienced by other neighboring Housing Authorities. Staff tested measures like calling applicants to tell them that an offer was being mailed in order to prompt them to submit the requested information and to offer times when applicants could come to the office to receive assistance with completing their paperwork. The measures did not improve the response rate.

Only 177 (21.5%) of the applicants who submitted the required information were found qualified and offered a Voucher; 13 are still in process; 38 were over-income; and 187 were returned to the waiting list because they did not qualify for the preferences we were serving at the time.

HACA must fully utilize its HCVP budget authority and efficiently process applications in order to afford to operate the HCVP. HACA is not paid an Administrative Fee for the processing of wait list applicants. Instead, regardless of the number of applications it processes, HACA is paid only for housed applicants and only after the applicant's rental unit is under contract. Further, HACA is not paid Administrative Fee for contract authority that is not used, i.e., for the 100 Vouchers that are not leased even though those Vouchers are in our contract with HUD.

Verifying that an applicant is eligible for claimed preferences for which s/he is not eligible and then returning an ineligible applicant to the waiting list because s/he doesn't qualify for claimed preferences is almost as much work as determining an applicant's program eligibility. Additionally, applicants that are returned to the waiting list are processed, at least, twice; first when they don't qualify for the claimed preferences and again when they make it back to the top of the list based on their verifiable preferences, if any.

In order to accelerate processing of applicants to fully utilize HACA's available HCVP contract authority, HACA proposes to temporarily allow applicants who complete their eligibility paperwork, but who don't qualify for the preferences currently being processed, to continue to be processed rather than being returned to the wait list.

HACA would conduct its draws from the wait list as it normally does, making HCV offers to applicants in order of priorities and preferences. However, in order not to lose those applicants that do complete their paperwork, it is proposed that, for the remainder of the fiscal year (i.e., until June 30, 2017) such applications continue to be processed rather than being returned to the wait list. Staff is of the opinion that doing so would allow HACA to utilize the 100+ units at issue. Subsequently, HACA payment standards (that have again been modestly increased effective December 1) should be adequate to maintain the full utilization of the HCVP contract authority and to allow HACA to revert to its stated Admin Plan provisions regarding priorities and preferences.

As a postscript, staff is working on further measures to increase the efficiency and effectiveness of application processing. Some of these will require Admin Plan changes and staff will present those to your Commission in the coming months.

Chapter 17 – Project-Based Vouchers (PBV)

Most of the changes are the result of regulatory changes and a recent HUD notice that contained new or refined directives.

17-II.B. Solicitation and Selection of PBV Proposals – page 17-4 to 17-7

Solicitation and Selection of PBV Proposals

Staff announces PBV Requests for Proposals (RFP) on its website, directly with developers who have requested notice and in a number of local newspapers. The change clarifies that with respect to required newspaper notice such notices will be placed in the appropriate newspaper(s) that serve the area where units are available under the RFP. This change is made as a cost saving measure.

HACA-Owned Units

Staff removed the references to public housing as HACA no longer has public housing units in its portfolio.

17-II.G. Site Selection Standards – page 17-12

HUD's office of Fair Housing and Equal Opportunity (FHEO) has indicated without formal notice that it does not want housing authorities to award PBVs in census tracts where poverty concentrations exceed the Alameda County or San Francisco-Oakland-Fremont Metropolitan Statistical Area by 20 percent or more. HACA has adopted this suggestion in order to continue its efforts to decrease poverty concentration. There are exceptions in the HUD regulations to this standard for areas undergoing revitalization and HACA's Admin Plan includes these.

17-III.D. Inspecting Units – pages 17-15 to 17-16

Staff currently conducts inspections of 100 percent of PBV units. As a cost saving measure staff proposes we use the option provided in the HUD regulations of inspecting a 20 percent random sample of the contract units in each building. One hundred percent of the units are inspected should 20 percent of the sample units fail.

17-VII.B. Lease

Continuation of Housing Assistance Payments – page 17-35

Per HUD regulations, a PBV family whose tenant rent portion equals or exceeds the rent to owner will not have its other rights under its lease affected nor will it preclude the family from requesting an interim reexamination if the family's circumstances change within 180 days of the last housing assistance payment. Staff clarified that a request for an interim reexamination must be received before the expiration of the 180-day period.

17-VII.D. Exceptions to the Occupancy Cap – pages 17-37 to 17-38

Per HUD regulations, a PBV family that initially qualified for occupancy of an excepted unit based on elderly and/or disabled family status and who later becomes ineligible for the occupancy due to circumstances beyond the control of the family may remain in the unit and continue to be counted as an excepted unit. Staff has adopted this provision in order to prevent displacement of the low-income family.

17.VIII.A Overview

Reasonable Rent – Page 17-40

Per HUD regulations, HACA may elect not to reduce future PBV rents below the initial level set in the HAP contract, even though the fair market rents may decrease. HACA has elected to adopt this provision as lenders generally require this as a condition of loan approval on new construction and rehabilitation projects.

Staff recommends that your Housing Commission approve the above revisions to the Admin Plan. Once approved, staff training will be conducted and the revised Plan will be implemented.

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: January 11, 2017

Subject: Section 8 Administrative Plan - Policy Revision; Third Amendment to MOU between HACA and the Alameda County Behavioral Health Care Services Agency (BHCS) Regarding Increase in Housing Choice Vouchers for BHCS Programs

Exhibits Attached: - Redline Summary of Admin Plan Policy Revision
 - Third Amendment to MOU

Recommendation: Approve Proposed Admin Plan Policy Revisions; Approve Amendment to MOU

Financial Statement: None

BACKGROUND

HACA’s Section 8 Housing Choice Voucher Program (HCVP) Admin Plan sets forth HACA’s policies for administering the Section 8 Program in a manner consistent with HUD requirements and HACA’s Agency Plan—its policies, programs, operations, and strategies for meeting local housing needs and goals. HACA’s Admin Plan is available for public review.

HACA partners with the Alameda County Behavioral Health Care Services Agency (BHCS) to house persons with serious mental issues in Alameda County. For three years, participants in the Choices and FACT Programs administered by BHCS receive subsidized housing and services using BHCS funds. At the end of the three-year term, graduates in good standing are referred to HACA and entered into a lottery for a Housing Choice Voucher (Voucher) administered by HACA.

DISCUSSION and ANALYSIS

The MOU with BHCS states that HACA will issue a Voucher to the lesser of 50% or 75 Choices and/or FACT graduates by the end of the first three-year period of the programs. The number of graduate referrals that HACA received in the last two lotteries has been lower than anticipated and well below the cap of 75 Vouchers. At the same time, HACA has available Vouchers that could be used to house more eligible graduates.

HACA AGENDA ITEM NO.: 4-4.

The Admin Plan states that HACA will consider additional allocations of Vouchers in three year cycles, depending on resource availability. With the increase in HAP funding we received as a result of our FMR study adequate resources are readily available. Staff recommends removing the 50% criterion in both the MOU and the Admin Plan and issuing Vouchers to all referrals, up to and including the 75 Voucher cap.

As noted in the revisions of the Admin Plan, BHCS merged the separate Choices and FACT Programs into a single Mental Health Services Act (MHSA) Program as part of the Second Amendment to the MOU. Staff is amending the Admin Plan to reflect this change.

A red-line version of the HACA Admin Plan policy changes and the Third Amendment to the MOU follows.

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families are selected from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

HACA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to HACA's selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-designated families living in specified types of units (e.g., a family that is displaced by demolition or disposition of public housing; a non-purchasing family residing in a HOPE 1 or 2 project). In these cases, HACA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. HACA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award HACA funding, and/or designate assistance, for a specified category of families on the waiting list. HACA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category.

HACA Policy

For any specified category of families for which HUD may award funding to HACA, and/or designate assistance for, HACA will select the applicant for assistance in the following order:

- If set forth by the HUD funding award, in that order;
- If not set forth by the HUD funding award, in the order of first come, first served.

Categories of Families for which HUD Has Designated Assistance or Awarded Funding to HACA, or for which HUD May Award Funding to HACA in Response to an Application From HACA, include, but are not limited to:

- **HUD Office of Policy Development and Research, Impact of Housing and Services Interventions on Homeless Families Study**
For up to a maximum of 10 permanent vouchers that HACA has agreed to

dedicate to the study, the waiting list is always open to an otherwise eligible homeless applicant referred to HACA by the research project.

- **Notice of Funding Availability (NOFA) Family Unification Program (FUP)**
HACA has executed a Memorandum of Understanding (MOU) dated November 19, 2010 with the Alameda County Social Services Department, the applicable Public Child Welfare Agency (PCWA). HACA, upon receipt of the PCWA list of families and youths currently in the PCWA caseload, will compare the names with those of families and youths already on HACA's HCV waiting list. Any family or youth on HACA's HCV waiting list that matches with the PCWA's list will be assisted in order of its position on the waiting list in accordance with HACA admission policies. Any family or youth certified by the PCWA as eligible and not on the HCV waiting list will be placed on the waiting list. If HACA has closed the HCV waiting list, it will reopen the waiting list to accept a FUP applicant family or youth who is not currently on HACA's HCV waiting list.
- **Rental Assistance for Non-Elderly Disabled (RANE) Families Transitioning from MediCal Funded Facilities**
HACA has executed an MOU dated June 17, 2010, with East Bay Innovations, the applicable Lead Organization (LO). HACA, upon receipt of the LO's list of families or individuals eligible for RANE, will compare the names with those of families already on HACA's HCV waiting list. Any family on HACA's HCV waiting list that matches with the LO's list will be assisted in order of their position on the HCV waiting list in accordance with HACA admission policies. Any family certified by the LO as eligible and not on the HCV waiting list will be placed on the RANE waiting list. If HACA has closed the RANE waiting list, it will reopen the waiting list to accept a RANE applicant family who is not currently on the RANE or HCV waiting list.
- **Veterans Affairs Supportive Housing (VASH)**
HACA does not maintain a waiting list or apply preferences/priority for this program in accordance with Federal Register Vol. 73, No. 88, May 6, 2008 (Docket No. FR-5213-N-01), as participants are referred for assistance directly from the Veterans Administration.

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR 982.202(d)].

Local Preferences [24 CFR 982.207; HCV p. 4-16; CA Health & Safety Code Section 34322.2(a) and (b)]

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

HACA Policy

Section 8 Housing Choice Voucher Program (HCV)

HACA applies the following preferences and priority:

- FUP Graduates: Emancipated youth currently receiving housing assistance from HACA pursuant to HUD's Family Unification Program (FUP) regulations effective 2009 or later, who as determined by the Alameda County Social Services Agency, are in good standing, and are nearing the end of their participation in FUP and will graduate from the program and has been referred to HACA by the Alameda County Social Services.
- CHOICES or FACT Graduates: Participants of the CHOICES or FACT programs sponsored by the Alameda County Behavioral Health Care Services Agency (BHCS), who, as determined by BHCS, are in good standing; are nearing the end of their participation; will soon graduate from the program; and, have been referred to HACA by BHCS. (The CHOICES and FACT programs will end effective January 31, 2017.)
- Displaced-HACA: *Displaced family—HACA-owned or HACA-managed housing as set forth in the Glossary.*
- Displaced-Other: *Displaced family as set forth in the Glossary.*
- MHSA Graduates (Formerly, Choices or FACT Graduates): Participants of the State of California Mental Health Services Act (MHSA) shelter and services program sponsored by the Alameda County Behavioral Health Care Services Agency (BHCS), who, as determined by BHCS, are in good standing; are nearing the end of their participation; will soon graduate from the program; and, have been referred to HACA by BHCS.
- PH Mishoused: *Public Housing Mishoused as set forth in the Glossary* who are Public Housing tenants currently residing in HACA's jurisdiction whose unit size HACA has determined to have been inappropriate for the size and composition of the family, or designated as restricted to elderly or disabled families where the

family is neither elderly nor disabled, for at least 90 days and who has not been offered a transfer to another unit due to unit unavailability.

- Resident: Families that, at the time of selection from the waiting list, reside anywhere in HACA's jurisdiction, or include a member who works, or has been hired to work in the jurisdiction. Use of this preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.
- Sole Persons Elderly/Disabled: Sole persons:
 - 62 years of age or older; or
 - *persons with disabilities* as set forth in the *Glossary*
- Veteran: Priority will be given to veterans or servicepersons as set forth in the *Glossary* within each preference category.

HACA will select applicants from its waiting list for HCV assistance in the following order:

Note #1: Prior to assisting applicants in category 3 below, HACA will assist currently housed Project-Based Voucher holders who have priority to receive the next available opportunity for continued tenant-based assistance as outlined in Section 17-VII.C.

Note #2: For the following categories 3 through 10 below, HACA will limit the number of applicants that may qualify for the Displaced-Other preference such that no more than five applicants from this preference will be selected in any calendar month.

1. Applicants for Targeted Funding as set forth in Section 4-II.B above
2. FUP Graduates and MHSA CHOICES or FACT Program Graduates
 - a. FUP Graduates
 - i. HACA will assist applicants in the order of first come, first served except that veterans or servicepersons as set forth in the *Glossary* will be assisted before applicants who are not veterans or servicepersons.
 - ii. HACA will limit the number of applicants that may qualify for this preference such that no more than five applicants from this preference will be selected in any calendar month.
 - b. MHSA CHOICES or FACT Program Graduates
 - i. HACA will conduct a lottery of MHSA CHOICES and FACT Program graduates referred by BHCS and assist applicants in order of ascending lottery "tiebreaker" number (that is, applicants with a lower lottery "tiebreaker" number are selected before applicants with a higher one) except that veterans or servicepersons as set forth in the *Glossary* will be assisted before applicants who are not veterans or servicepersons.

- ii. HACA will limit the number of applicants that may qualify for this preference such that no more than ~~50 percent~~ 75 applicants of the combined MHSA CHOICES and FACT graduates up to 75 applicants from this preference will be selected ~~by the end of the first three-year period of the programs and will consider additional allocations of vouchers in three-year cycles, depending on resource availability annually.~~
3. a.) Veteran and Displaced-HACA or b.) Veteran and Displaced-Other and Resident and Sole Persons Elderly/Disabled
 4. a.) Displaced-HACA or b.) Displaced-Other and Resident and Sole Persons Elderly/Disabled
 5. a.) Veteran and Displaced-HACA or b.) Veteran and Displaced-Other and Resident.
 6. a.) Displaced-HACA or b.) Displaced-Other and Resident
 7. a.) Veteran and Displaced-HACA or b.) Veteran and Displaced-Other and Sole Persons Elderly/Disabled
 8. a.) Displaced-HACA or b.) Displaced-Other and Sole Persons Elderly/Disabled
 9. Veteran and a.) Displaced-HACA or b.) Displaced-Other
 10. a.) Displaced-HACA or b.) Displaced-Other
 11. Veteran and PH Mishoused and Resident and Sole Persons Elderly/Disabled
 12. PH Mishoused and Resident and Sole Persons Elderly/Disabled
 13. Veteran and PH Mishoused and Resident
 14. PH Mishoused and Resident
 15. Veteran and PH Mishoused and Sole Persons Elderly/Disabled
 16. PH Mishoused and Sole Persons Elderly/Disabled
 17. Veteran and PH Mishoused
 18. PH Mishoused
 19. Veteran and Resident and Sole Persons Elderly/Disabled
 20. Resident and Sole Persons Elderly/Disabled
 21. Veteran and Resident
 22. Resident
 23. Veteran and Sole Persons Elderly/Disabled
 24. Sole Persons Elderly/Disabled
 25. Veteran
 26. Applicants without preferences or priority

**THIRD AMENDMENT TO
MEMORANDUM OF UNDERSTANDING (MOU)
Alameda County Behavioral Health Care Services (BHCS) –
Housing Authority of the County of Alameda (HACA)**

This Third Amendment to the Memorandum of Understanding (Amendment) is made and entered into as of January 11, 2017, by and between the Alameda County Health Care Services Agency, Behavioral Health Care Services Department (BHCS), and the Housing Authority of the County of Alameda (HACA).

Whereas, BHCS and HACA entered into a Memorandum of Understanding (MOU) on December 1, 2009 (approved by the Alameda County Board of Supervisors on October 13, 2009 (File No. 25303/Item No. 10)) for the CHOICES Program and amended this MOU to include the Forensic Assertive Community Treatment Program on October 1, 2012;

Whereas, BHCS and HACA entered into a Second Amendment to Memorandum of Understanding (MOU) dated May 5, 2016 to amend the MOU to modify its terms to account for the conclusion of the CHOICES program and significant changes to the BHCS approach to utilizing Mental Health Services Act funding for housing subsidies;

Whereas, BHCS and HACA wish to further amend the MOU to provide for an increase in the number of Housing Choice Vouchers that HACA will make available to graduates of BHCS programs;

Now, therefore, BHCS and HACA hereby amend Section II. E. of the MOU to read as described below.

E Provide Section 8 Housing Choice Vouchers for Select Programs Graduates: HACA shall allocate Section 8 Housing Choice Vouchers for up to and including 75 designated graduates of the Programs. HACA will make available these vouchers at the end of the second three-year period in November 2016 and will consider additional allocations of vouchers in three-year cycles, depending on resource availability. Participants of the Programs in “good standing” after each three-year cycle will be eligible to participate in a lottery for the allocated vouchers. “Good standing” means the participant has at least 15 months of successful tenancy in their housing unit. Successful tenancy means consistent compliance with the terms of their rental and subsidy agreement. BHCS shall make the determination of eligibility for the lottery and shall provide HACA with a referral list of the participants eligible and interested in applying for the lottery. HACA shall conduct the lottery. HACA will assign each participant referred by BHCS a number using a randomized number lottery and will process participants in rank order beginning with number one until the agreed-upon number of voucher slots are used. As part of processing participants with lottery numbers HACA will determine eligibility for the Housing Choice

Voucher program. A participant who is not eligible for a Housing Choice Voucher will not receive one regardless of the fact that BHCS placed the participant on the referral list.

All other terms and provisions of the MOU remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to MOU as of the day and year first above written.

For Behavioral Health Care Services:

For Housing Authority of the County
of Alameda:

Manuel Jimenez, Director

Christine Gouig, Executive Director

Date

Date

Approved as to Form:
Donna R. Ziegler, County Counsel

By: _____
Andrea L. Weddle
Assistant County Counsel

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: January 11, 2017

Subject: Resolution Authorizing Disposition of Mission Boulevard Property to PACH

Exhibits: - Resolution No. 01-17
- Attachment B: Release of Declaration of Trust; Use Agreement; Escrow Instructions

Recommendation: Adopt the Resolution

Financial Impact: \$1.00

BACKGROUND

Beginning in 2009 with the submission to HUD of an application to dispose of HACA's scattered-site public housing units, all located in Union City, HACA has executed multi-year strategies to convert all 230 of its public housing units to other, more viable, forms of assisted housing. HACA, similar to other housing authorities across the nation, had found it impossible to consistently operate its public housing in the black and maintain the assets at the level necessary to preserve their long-term viability. The combination of tenant rents, HUD Operating Subsidy and HUD Capital Fund Program funding was simply inadequate to do so. In HACA's case, Public Housing Program Fiscal Years 2002, and 2006 through 2015 all ended in deficits and reserves were dwindling as they were used to fund the deficits.

In 2016, HACA converted the last of its public housing units (the 36-unit Emery Glen development in Emeryville and the 36-unit Mission View development in Union City) to HUD's Rental Assistance Demonstration Program (RAD). While the RAD conversion completed the disposition of all *dwelling* units, the public housing program continued to hold non-dwelling assets--HACA's two non-dwelling buildings situated on 0.8 acres of land located at 29800 Mission Boulevard in Hayward. One of the buildings is HACA's maintenance facility. The other is a currently vacant office building (our former administrative offices) that HACA has been attempting to lease.

DISCUSSION and ANALYSIS

Last year, your Housing Commission authorized the submission of an application to HUD to dispose of 29800 Mission Boulevard, Hayward. On October 25, 2016, the U.S. Department of Housing and Urban Development (HUD) approved HACA's application and HUD and HACA are now in the process of finalizing the disposition to Preserving Alameda County Housing, Inc. (PACH), HACA's non-profit instrumentality, for \$1. PACH is the owner of the 230 units of HACA's former public housing so it makes sense that PACH own the Mission Boulevard property as well.

The closing requires that various documents be executed including, but not limited to, escrow instructions, a grant deed, a use agreement, a release of declaration of trust and a preliminary change of ownership report form. The resolution before you today authorizes and directs HACA's Executive Director to execute these and any other documents or agreements that may be required. It also approves HACA's sale of the property to PACH for \$1.

Further, HUD's approval of the disposition stipulates that HACA "shall ensure that all non-dwelling buildings and property included in this disposition are utilized to **support** affordable housing units (PBV and RAD) for a period of not less than 30 years." While HACA has no present development plans for the site, it would like to preserve the option to **develop and operate** affordable housing on the property at some future date. In order for HACA to be able to do so, HUD must modify its disposition approval and staff has submitted a request to HUD for such approval. If HUD does approve HACA's request, the resolution before you today also authorizes and directs HACA's Executive Director to execute any other documents that may then be required.

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

RESOLUTION NO. 01-17

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF HUD-REQUIRED DISPOSITION DOCUMENTS AFFECTING THE SITE WHICH SERVES PROJECT NUMBER CA067999999

WHEREAS, the Housing Authority of the County of Alameda (“**HACA**”) has entered into a Consolidated Annual Contributions Contract (the “**ACC**”) with the United States of America, acting through the U.S. Department of Housing and Urban Development (“**HUD**”);

WHEREAS, pursuant to the ACC, HACA requested HUD approval of the sale of certain disposition property owned by HACA (the “**Disposition Property**”), and HUD, as documented in the letter from HUD to HACA dated October 25, 2016 as it may thereafter be amended (collectively, the “**Approval Letter**”), agreed to such sale on the terms and conditions set forth in the Approval Letter;

WHEREAS, the Disposition Property is currently encumbered by a Declaration of Trust in favor of HUD, and HUD must execute, and HACA must record, a Release of Declaration of Trust (the “**Release**”) prior to any transfer or encumbrance of the Disposition Property;

WHEREAS, HUD has conditioned its approval for the transfer of the Disposition Property on the condition that such property be utilized to support affordable housing units (PBV and RAD) for a period of not less than 30 years (the “**Use Requirement**”), and that such Use Requirement be evidenced by a use agreement (the “**Use Agreement**”) recorded in the official records of the county where the Disposition Property is located;

WHEREAS, HUD has further conditioned its approval for the transfer of the Disposition Property on the condition that any proceeds realized from the transfer of the Disposition Property be used solely for purposes authorized under, and in accordance with, Section 18 of the Act, 24 CFR Part 970, the Approval Letter and/or all other applicable HUD notices and other guidance in effect at the time of such approval (the Release and the Use Agreement, together with such other documents as HUD deems necessary, are collectively referred to herein as the “**HUD-Required Disposition Documents**”); and

WHEREAS, it is deemed to be in the best interests of HACA to execute and deliver, or cause to be executed and delivered, the HUD-Required Disposition Documents and any additional instruments required by HUD to complete the disposition.

NOW, THEREFORE, BE IT RESOLVED, that HACA hereby approves the disposition and the form and substance of the HUD-Required Disposition Documents, and the transactions contemplated thereby;

RESOLVED FURTHER, that Christine Gouig, Executive Director of HACA, acting alone on behalf of HACA, is hereby authorized and directed on behalf and in the name of HACA to execute and deliver the HUD-Required Disposition Documents, in substantially the form presented to HACA, with such changes therein as Christine Gouig may approve as necessary or desirable, with such approval to be evidenced conclusively by the execution and delivery of the HUD-Required Disposition Documents;

RESOLVED FURTHER, that the actions taken by Christine Gouig, Executive Director of HACA, acting alone on behalf of HACA, in connection with the execution and delivery by HACA of the HUD-Required Disposition Documents be, and hereby are, ratified, confirmed and approved, as the acts and deeds of HACA; and

RESOLVED FURTHER, that Christine Gouig, Executive Director of HACA, acting alone on behalf of HACA, is hereby authorized, directed and empowered, on behalf of HACA and in its name, to take all such other actions and to execute, acknowledge, deliver, file and record any applications, certificates, agreements, other instruments or documents, or amendments or supplements thereto, or to do and to cause to be done any and all other acts and things as Christine Gouig may in her sole discretion deem necessary or appropriate in order to carry out and perform the purposes and intent of the foregoing resolutions, the taking of such actions or the execution, acknowledgment, delivery, filing or recording of any such instruments, documents or certificates to be conclusive evidence of the necessity and appropriateness thereof; and that any and all acts authorized hereunder are, in all respects, ratified, confirmed, approved and adopted as the acts and deeds of HACA.

PASSED, APPROVED AND ADOPTED by the Housing Commission of the Housing Authority of the County of Alameda on this _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

EXCUSED:

ABSENT:

Pat Gacoscos, Housing Commission Chairperson

Attest:

Christine Gouig, Executive Director/Housing Commission Secretary

Adopted:

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: January 11, 2017

Subject: Ratification of Settlement Agreement with Colony Insurance Company

Exhibits Attached: Attachment C: Settlement Agreement and Mutual General Release

Recommendation: Ratify the Agreement

Financial Statement: \$90,000 paid by Colony Insurance Company to the Housing Authority

BACKGROUND

The work performed by World Priority LLC (“WP”), the exterior siding contractor for the Emery Glen apartments, was poorly done and allowed water to penetrate three of the units. When your Housing Commission terminated the contract with WP for failure to perform in accordance the contract, staff filed a claim with Colony Insurance Company (“Colony”), the contractor’s general liability carrier, for payment of the costs to correct the water damage. Around the same time staff filed a claim with the contractor’s surety bond company for payment of costs to re-do the siding and windows that were incorrectly installed and to complete the work that wasn’t done.

All parties filed lawsuits and the suit with Colony, representing its client WP, has now been settled, pursuant to a mediation held on September 14, 2016. (Settlement discussions with the surety have not yet started.) At your meeting of November 9, 2016, your Commission heard a presentation from Cameron Ward of Dannis Woliver Kelley, the Housing Authority’s counsel in this matter. Mr. Ward summarized the status of the lawsuits and provided an overview of the Settlement Agreement with Colony. The Housing Authority’s Executive Director executed the Settlement Agreement on behalf of the Authority and your Commission is now asked to ratify the Agreement.

The key provision of the Agreement is that Colony agreed to pay the Housing Authority \$90,000 in settlement of all claims covered by it. The total cost of the work and studies done to correct the water intrusion is \$117,610, so \$90,000 represents 77 percent of the Housing Authority’s costs. The Housing Authority received and deposited the check from Colony last month.

All work, both interior and exterior, at Emery Glen is complete and all units are now occupied. There have been no problems resulting from the recent rains.

BUDGET STATUS REPORT

Housing Authority of Alameda County
HOUSING CHOICE VOUCHER
Administrative Budget Status Report FYE June 30, 2017
November 2016

FY 2017 - HCV OPERATING BUDGET	Budgeted @ 11/30/2016	Actual @ 11/30/2016	OVER (UNDER)	PROJECTED TO 6/30/17	SCH. NO.	2016 BUDGET	2017 BUDGET	DIFFERENCE
INCOME								
Investment Income	208	0	(208)	0	A1	735	500	(235)
Misc. Income	135,833	128,853	(6,980)	276,248	A1	323,698	326,000	2,302
Administrative Fee Income	2,906,764	2,931,324	24,560	6,866,184	A	6,447,189	6,976,234	529,045
TOTAL INCOME	3,042,806	3,060,177	17,371	7,142,432		6,771,622	7,302,735	531,113
EXPENSES								
Administration								
Salaries	(1,712,806)	(1,468,015)	244,791	(4,169,853)	B-1& 2	(3,794,397)	(4,110,734)	(316,337)
Other Admin.	(651,566)	(477,357)	174,209	(1,145,658)	C-1&2	(1,538,303)	(1,563,758)	(25,455)
Total	(2,364,371)	(1,945,372)	418,999	(5,315,511)		(5,332,700)	(5,674,492)	(341,791)
General								
Insurance	(94,346)	(90,163)	4,183	(216,390)	E	(203,970)	(226,429)	(22,459)
Employee Benefits	(933,479)	(835,746)	97,733	(2,240,350)		(2,124,862)	(2,240,350)	(115,488)
Miscellaneous	0	0	0	0		0	0	0
Total	(1,027,825)	(925,909)	101,916	(2,456,740)		(2,328,832)	(2,466,779)	(137,947)
Total Routine Expenses	(3,392,196)	(2,871,281)	520,915	(7,772,251)		(7,661,532)	(8,141,271)	(479,739)
Capital Expenditures								
	0	0	0	0	D2	0	0	0
TOTAL EXPENSES	(3,392,196)	(2,871,281)	520,915	(7,772,251)		(7,661,532)	(8,141,271)	(479,739)
NET INCOME (DEFICIT)	(349,390)	188,896	538,286	(629,819)		(889,910)	(838,536)	51,374

Unrestricted Net Position @ 6/30/16 (Unaudited)
 Projected Income (Deficit) @ 6/30/17
 Projected Unrestricted Net Position @ 6/30/17

\$ (5,223,545)
 (629,819)
\$ (5,853,364)

PROGRAM ACTIVITY REPORT

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: January 11, 2017

Subject: Programs Activity Report

Exhibits Attached: Section 8 and Housing Assistance Payments (HAP) Report; Section 8 Average Contract Rent Report; Fraud Payments Report; Landlord Rental Listing Report; FSS Program Monthly Report

Recommendation: Receive Report

Financial Statement: None

SECTION 8 HOUSING CHOICE VOUCHERS

- **Lease-Up:** As of January 1, 2017, the Section 8 Housing Choice Voucher program had 6,238 units under contract. The fiscal year-to-date lease-up average is 97.20% units as of January 1, 2017. The budget authority use average through November 2016 is 103%.
- **Program Utilization:** As of January 1, 2017, the average HAP subsidy was \$1,273 and the average tenant-paid rent portion was \$471 for an average Contract Rent of \$1,743. Amounts vary by \$1 due to rounding.
 - ❖ As of January 1, 2017, HACA had 83 outgoing billed portability contracts (i.e., HACA voucher holders who are housed in another housing authority's jurisdiction).
 - ❖ As of January 1, 2017, HACA billed other housing authorities for 139 incoming portability contracts. The number is dropping as HACA absorbs older port-in contracts in order to increase its lease-up, which has been dropping due to skyrocketing rents in the county and the inability of tenants to locate affordable units.
 - ❖ 227 of PACH's 230 project-based voucher (PBV) units are leased. These are HACA's former public housing units converted under HUD's Section 18 or Rental Assistance Demonstration programs and transferred to PACH, HACA's instrumentality.
- **Section 8 Contract Report:** A copy of the Contract Report is attached.
- **Fraud / Debt Recovery:** HACA retained \$10,643.05 for the month of November. A total of \$51,135.08 was retained over this fiscal year.
- **Landlord Rental Listings:** As of January 3, 2017, there were 757 landlords with properties in HACA's jurisdiction utilizing the *GoSection8* rental listing service. There were five new landlords added to the Section 8 program in December. There were 18 active properties listed as of January 3, 2017.

FAMILY SELF SUFFICIENCY (FSS)

The FSS Department's annual holiday Giving Connection was a great success this year. Thanks to the donations from FSS participant families who were in a position to donate this year, HACA's Housing Commissioners, HACA staff, a Section 8 landlord, the Hayward Fire Department and other individuals and businesses approximately \$4,165 in grocery gift cards and toys were distributed to 79 FSS families.

The FSS Department held orientations quarterly in 2016 to introduce interested participants to the FSS Program and its benefits. The FSS Department will continue to hold these orientations each quarter in 2017 in order to increase the program's enrollment.

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

Section 8 and Housing Assistance Payments (HAP) Report for the Month of December 2016

City	Certificates		Vouchers		December 2016 TOTAL		December 2015	December 2014
	Number	HAP*	Number	HAP**	Number	HAP		
Albany	0	\$0	24	\$31,344	24	\$31,344	27	29
Castro Valley	11	\$12,881	196	\$255,976	207	\$268,857	210	225
Dublin	3	\$3,513	351	\$458,406	354	\$461,919	357	358
Emeryville	5	\$5,855	156	\$203,736	161	\$209,591	130	120
Fremont	22	\$25,762	1,053	\$1,375,218	1,075	\$1,400,980	1,079	1,173
Hayward	91	\$106,561	1,900	\$2,481,400	1,991	\$2,587,961	2,060	2,286
Newark	6	\$7,026	203	\$265,118	209	\$272,144	225	243
Pleasanton	3	\$3,513	109	\$142,354	112	\$145,867	110	119
San Leandro	17	\$19,907	1,412	\$1,844,072	1,429	\$1,863,979	1,470	1,535
San Lorenzo	1	\$1,171	193	\$252,058	194	\$253,229	198	218
Union City	3	\$3,513	756	\$987,336	759	\$990,849	743	781
TOTALS	162	\$189,702	6,353	\$8,297,018	6,515	\$8,486,720	6,609	7,087

*Based on an average December Housing Assistance Payment (HAP) of \$1171 per certificate contract

**Based on an average December Housing Assistance Payment (HAP) of \$1306 per voucher contract

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

Section 8 Average Contract Rent Report for the Month of December 2016

City	Number of HAP Contracts	Average Contract Rent	Average HAP Paid by HACA	Average Rent Paid by Family	Average Family-Paid Rent as a Percentage of Average Contract Rent
Albany	24	\$1,440	\$1,187	\$252	18%
Castro Valley	178	\$1,710	\$1,270	\$440	26%
Dublin	274	\$1,799	\$1,368	\$431	24%
Emeryville	118	\$1,473	\$1,014	\$459	31%
Fremont	986	\$1,920	\$1,430	\$490	26%
Hayward	1853	\$1,682	\$1,227	\$455	27%
Newark	204	\$2,174	\$1,567	\$607	28%
Pleasanton	109	\$1,520	\$1,089	\$431	28%
San Leandro	1415	\$1,673	\$1,195	\$477	29%
San Lorenzo	193	\$2,002	\$1,499	\$504	25%
Union City	533	\$2,057	\$1,512	\$545	26%

*Some rents may vary by \$1 due to rounding

DEBT COLLECTIONS

2016-2017

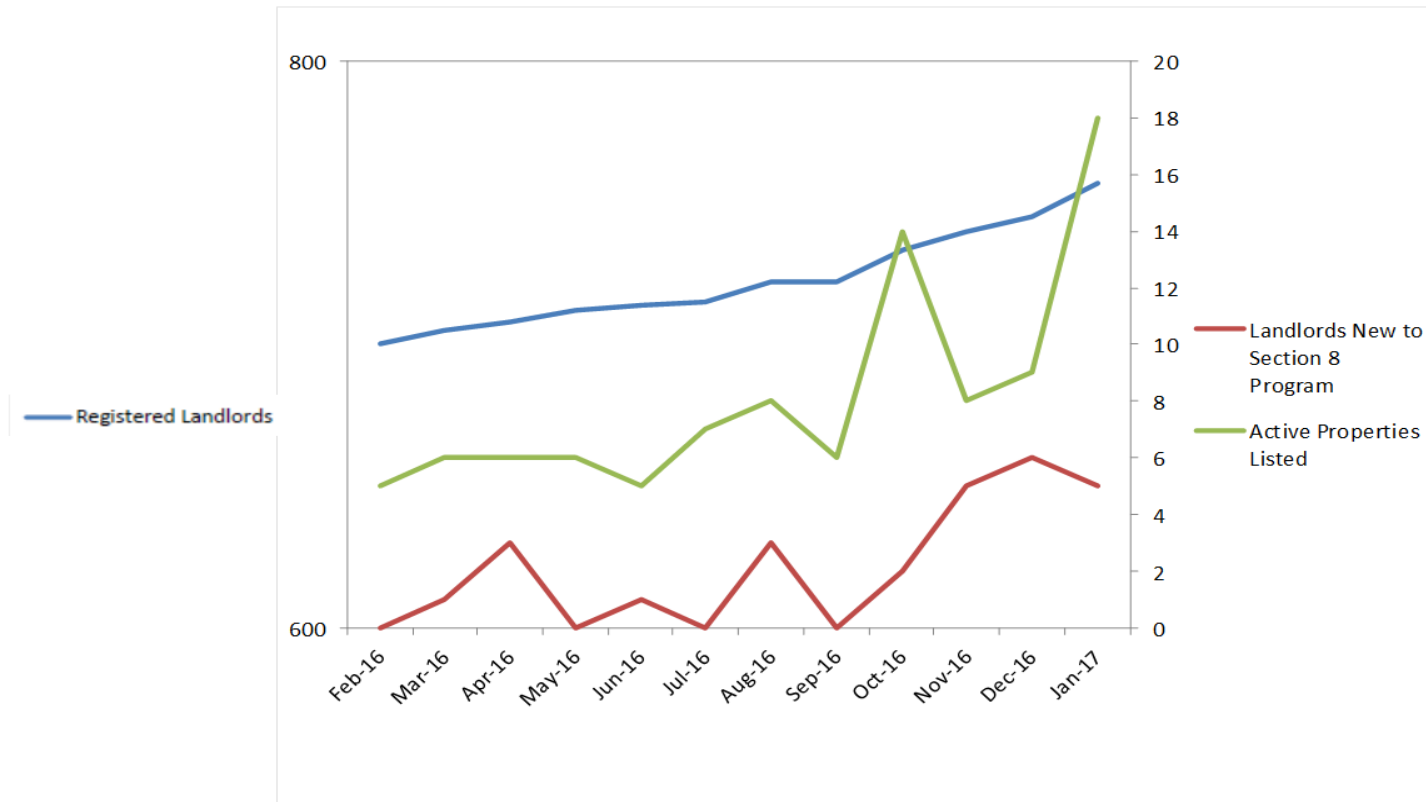
FYE 06/30/17

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	JANUARY '17	FEBRUARY	MARCH	APRIL	MAY	JUNE	GRAND TOTALS
<i>DAMAGE CLAIMS</i>	\$0.00	\$408.00	\$0.00	\$0.00	\$0.00								\$408.00
<i>FRAUD REPAYMENTS</i>	\$3,786.89	\$10,046.44	\$11,177.70	\$15,073.00	\$10,643.05								\$50,727.08
TOTALS	\$3,786.89	\$10,454.44	\$11,177.70	\$15,073.00	\$10,643.05	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$51,135.08

Landlord Rental Listing Report

Monthly

	2/1/2016	3/1/2016	4/1/2016	5/2/2016	6/1/2016	7/5/2016	8/1/2016	9/1/2016	10/3/2016	11/1/2016	12/1/2016	1/3/2017
Registered Landlords	700	705	708	712	714	715	722	722	733	740	745	757
Landlords New to Section 8 Program	0	1	3	0	1	0	3	0	2	5	6	5
Active Properties Listed	5	6	6	6	5	7	8	6	14	8	9	18





To: Christine Gouig, Executive Director
From: Daniel Taylor, Special Programs Manager
Re: **FSS Program Summary**
CC: Ron Dion, Linda Evans, Phyllis Harrison, Mary Sturges
Date: December 9, 2016

Program Summary	November 2016
Total Clients Under Contract:	155
MDRC:	100
Graduates:	0
Escrow Disbursed:	\$ 0
Ports In:	0
Ports Out:	0
Terminations:	1
New Contracts:	3

FSS PROGRAM NEWS:

It's Your Time To Shine Celebration

On Thursday, November 3, 2016, the FSS Department held its annual, "*It's Your Time to Shine*" event at the Marina Community Center in San Leandro. The evening was hosted by HACA's Executive Director, Christine Gouig. The accomplishments of FSS participants and graduates were recognized and the NAHRO "What Home Means to Me" poster contest winners from HACA were acknowledged.

We always have FSS graduates speak at the event but for the first time this year a current FSS participant was invited to speak about her experience in the program. The participant described how she applies the S.M.A.R.T goal format she learned from the FSS program at work and in her personal life -- **S**pecific, **M**easureable, **A**ttainable, **R**ealistic, and **T**ime based goals. She stated that having defined goals helped her find her purpose.

HACA Commissioners Biddle and Steiner attended and volunteers from Kohl's Department Store and HACA staff generously volunteered their time. The celebration was an inspiring and successful event

FSS Collaborations

On Saturday, November 19, 2016, the FSS program partnered with the River of Life Church and San Leandro City Councilmember Lee Thomas to provide turkey baskets for FSS families. Each basket included all of the food items for a holiday meal. Fifty-five FSS families received turkey baskets.

Giving Connection

The FSS team is preparing for our annual holiday *Giving Connection*. Through generous donations from HACA Commissioners, HACA staff, the Hayward Fire Department and others we are able to make the holidays a little brighter for our FSS participant families. The donations are used to give grocery store gift cards and toys to the families each year. Our participant families are always grateful and some of them also participate by giving instead of receiving. The *Giving Connection* will run through the month of December.

Case Management Referrals = 12

Job Lead Referrals = 50



To: Christine Gouig, Executive Director
From: Daniel Taylor, Special Programs Manager
Re: **FSS Program Summary**
CC: Ron Dion, Linda Evans, Phyllis Harrison, Mary Sturges
Date: January 3, 2017

Program Summary	December 2016
Total Clients Under Contract:	157
MDRC:	100
Graduates:	0
Escrow Disbursed:	\$ 0
Ports In:	0
Ports Out:	0
Terminations:	2
New Contracts:	4

FSS PROGRAM NEWS:

FSS Giving Connection

During the holiday season the FSS staff operationalizes the *FSS Giving Connection* with a goal of providing children's gifts and a food gift card to every one of the families in the FSS program. This year, friends and supporters of the *Giving Connection* included: FSS participant families who are in a position this year to donate, HACA's Housing Commissioners, HACA staff, the Hayward Fire Department's Toys for Tots program, and other individual and business sponsors. The families were extremely grateful and many expressed their gratitude by writing words of appreciation on thank you cards to the friends and supporters of the *Giving Connection* program.

FSS Orientations

The FSS team has had a busy year. The FSS team conducted quarterly orientations throughout 2016, holding the last one on December 1. A total of 117 families attended in 2016 and 36 signed up for the FSS program. In a continuing effort to recruit additional participants, staff is planning quarterly orientations throughout 2017, starting in February.

Case Management Referrals = 64
Job Lead Referrals = 4

ATTACHMENT A

4-III.F. COMPLETING THE APPLICATION PROCESS

HACA must verify all information provided by the family (see Chapter 7). Based on verified information, HACA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

HACA Policy

If HACA determines that the family is ineligible, HACA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. HACA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

As a temporary measure, from January 11, 2017, through June 30, 2017, -if a family fails to qualify for one or more selection preferences that affected the order in which it was selected from the waiting list, the family's eligibility will be processed rather than the family be returned to the waiting list.

If HACA determines that the family is eligible to receive assistance, HACA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and HACA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors HACA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments (HAP) Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at ~~the~~ HACA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how HACA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

Definition: An *owner* includes the owner(s), developer(s) and/or entity(ies) submitting a proposal for PBV assistance.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows [public housing authorities \(PHAs\)](#)PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. HACA may only operate a PBV program if doing so is consistent with the HACA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

HACA Policy

HACA will operate a project-based voucher program using up to a maximum of 20 percent of its budget authority for project-based assistance. This assistance will be allocated over a multi-year period.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an [AHAP-agreement to enter into a HAP contract \(Agreement\)](#) or a [Housing Assistance Payments contract \(HAP\)-contract](#), HACA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, HACA is responsible for determining the amount of budget authority that is available for project-based vouchers and for ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of HACA's policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

HACA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, HACA's policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. HACA may not use voucher program funds to cover relocation costs, except that HACA may use [their-its](#) administrative fee reserve to pay

for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of HACA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

HACA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, HACA must comply with HACA's Annual Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

HACA must describe the procedures for owner submission of PBV proposals and for HACA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, HACA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56, ~~FR Notice 11/24/08~~], and meets the site selection standards [24 CFR 983.57]. ~~+~~ ~~HACA~~ ~~The PHA~~ may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

HACA must select PBV proposals in accordance with the selection procedures in HACA's administrative plan. HACA must select PBV proposals by either of the following two methods.

- HACA request for PBV proposals. HACA may solicit proposals by using a request for proposals (RFP) to select proposals on a competitive basis in response to HACA's request. HACA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- HACA may select proposals that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME and units for which competitively-awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. In such cases, HACA need not conduct another competition.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]

HACA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by HACA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of HACA's request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

HACA Policy

HACA Request for Proposals for Rehabilitated and Newly Constructed Units

HACA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in one or more of the following newspapers, depending on the jurisdiction/location where units are available under the RFP:

- **Oakland Tribune**
- **Argus**
- **Daily Review**
- **~~Tri-Valley Herald~~East Bay Times**

In addition, HACA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The advertisement will specify the number of units HACA estimates that it will be able to assist under the funding that HACA is making available and the date proposals will be due.

In order for the proposal to be considered, the owner must submit the proposal to HACA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

HACA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Property management experience to manage the type of project proposed;
- Financial feasibility of the project;
- Extent to which the project furthers the HACA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Other criteria stated in the RFP.

HACA Requests for Proposals for Existing Housing Units

HACA will advertise its ~~request for proposals (RFP)~~ for existing housing in one or more of the following newspapers, depending on the jurisdiction where location units are available under the RFP:

- **Oakland Tribune**
- **Argus**
- **Daily Review**
- **~~Tri-Valley Herald~~East Bay Times**

In addition, HACA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The advertisement will specify the number of units HACA estimates that it will be able to assist under the funding HACA is making available and the date proposals will be due.

In order for the proposal to be considered, the owner must submit the proposal to HACA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP.- Incomplete proposals will not be reviewed.

HACA will rate and rank proposals for existing housing using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Financial feasibility of the project;
- Extent to which the project furthers the HACA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property;
- Extent to which units are occupied by families that are eligible to participate in the PBV program; and
- Other criteria stated in the RFP.

HACA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

HACA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits.

HACA may directly contact specific owners that have already been selected for federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed and HACA will evaluate each proposal on its merits using the following factors:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Property management experience to manage the type of project proposed;
- Financial feasibility of the project;
 - Extent to which the project furthers the HACA goal of deconcentrating poverty and expanding housing and economic opportunities; and
 - Extent to which the proposal complements other local activities (such as the redevelopment of a public housing site, the HOME program, CDBG activities, redevelopment project area activities, etc.).
 - Other criteria stated in the RFP.

HACA-Owned Units [24 CFR 983.51(e), ~~and 983.59~~, and Notice PIH 2015-05]

HACA-owned units may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the HACA-owned units were appropriately selected based on the selection procedures specified in HACA's

administrative plan. If HACA selects a proposal for housing that is owned or controlled by HACA, HACA must identify the entity that will review the HACA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of HACA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by HACA, the PHA and a HUD-approved independent entity. the initial contract rent must be approved by an independent entity. In addition, an independent entity must determine the rent to owner, the redetermined rent to owner, and reasonable rent. HACA, based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the HACA jurisdiction (unless HACA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HACA Policy

HACA may submit, accept and process a proposal for project-based housing that is owned or controlled by HACA, ~~including public housing that is in the process of being disposed of. HACA may conditionally select public housing units or projects while they are going through the disposition process and while HUD approves HACA's proposal selection process. HACA will not finally select public housing units or projects until disposition approval has been received from HUD's Special Applications Center and HUD has approved the proposal selection process.~~ If the proposal for HACA-owned housing is selected, HACA will use HUD, or a HUD approved entity, to review the HACA selection. HACA will also use a standard or high performer housing authority in or adjacent to Alameda County to establish the initial contract rent, ~~based on an appraisal by a licensed, state-certified appraiser,~~ and to perform HQS inspections of the HACA selection, prior to approving the proposal for HACA-owned housing.

HACA may only compensate the independent entity ~~and appraiser~~ from HACA's ongoing administrative fee income (including amounts credited to the administrative fee reserve or other non-program income). HACA may not use other program receipts to compensate the independent entity ~~and appraiser~~ for their-its services. HACA ~~and~~ the independent entity, ~~and the appraiser~~ may not charge the family any fee for the ~~appraisal or the~~ services provided by the independent entity.

HACA Notice of Owner Selection [24 CFR 983.51(d)]

HACA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

HACA Policy

HACA will promptly notify the selected owner in writing of the owner selection for the PBV program. HACA will also publish a notice in one or more newspapers of general circulation depending on the jurisdiction/location of the project to provide public notice of such selection.

Documents regarding HACA's basis of selection for PBV proposals will be made available for public inspection. - This excludes sensitive owner information, e.g., financial statements and similar information about the owner.

HACA will make these documents available for review during normal business hours. The cost for reproduction of allowable documents will be in accordance with the established schedule of fees and charges in effect at the time.

17-II.C. HOUSING TYPE [24 CFR 983.52]

HACA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an Agreement that was executed prior to the start of construction~~the AHAP~~. A housing unit is considered an existing unit for purposes of the PBV program if, at the time of notice of HACA selection, the unit substantially complies with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also ~~was started in accordance with PBV program requirements~~ do not qualify as existing housing.

HACA will decide what housing type (new construction, rehabilitation, and/or existing housing) will be used to develop project-based housing and HACA will state the type in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

HACA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, HACA may not attach or pay PBV assistance for a unit occupied by an owner and HACA may not select or enter into an AHAP Agreement ~~contract~~ or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. -A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an Agreement.

Subsidized Housing [24 CFR 983.54]

HACA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit ~~(HACA will accept proposals for public housing units and those proposals may be finally selected so long as the public housing is approved for disposition by HUD. No PBV assistance will be attached or paid to a public housing unit. PBV assistance~~

~~will be attached to a unit only after disposition has occurred and the unit is no longer a public housing unit.);~~

- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that HACA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or HACA in accordance with HUD requirements.

17-III.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, and FR Notice 7/9/10, and FR Notice 6/25/14]

HACA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

HACA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases ~~of HAP contracts for existing structures, or if such reviews have been conducted by the applicable state and local agencies (defined by HUD as qualified housing credit agencies, or HCAs) noted above~~, HACA may not enter into an ~~AHAP a~~ Agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA) or an independent entity approved by HUD, has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-ILF. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56(a)]

In general, HACA may not select a proposal to provide PBV assistance for units or enter into an [AHAPA Agreement](#) or a HAP contract to provide PBV assistance for units, if the total number of dwelling units that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily project because they are specifically made available for 1) elderly and/or 2) disabled families or 3) families receiving supportive services (also known as *qualifying families*).

HACA must include in the HACA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided~~For a project serving families receiving supportive services (3 above), HACA's administrative plan will include the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided.~~ It is not necessary that the services be provided at or by the project, if they are approved services.

To qualify, a family must have at least one member receiving at least one qualifying supportive service. HACA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, [Family Self-Sufficiency \(FSS\)](#) supportive services or any other supportive services as defined in the HACA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

HACA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. HACA's administrative plan must state the form and frequency of such monitoring.

HACA Policy

HACA will provide PBV assistance for excepted units. HACA will develop housing for occupancy by elderly families and/or disabled families and/or families receiving supportive services. Families in need of services may include elderly families, disabled families, families in need of particular supportive services, or families participating in the ~~Family Self-Sufficiency (FSS)~~ Program. Elderly and disabled families may live in excepted units without the requirement of receiving supportive services. Families qualified as receiving supportive services and families in the ~~FSS Family Self-Sufficiency~~ Program must receive the services, and/or successfully complete the service program, to be eligible for continued occupancy.

Families qualified as receiving supportive services and families in the ~~FSS Family Self-Sufficiency~~ Program that do not continue to receive the services or complete the required service program will be terminated in accordance with HACA policies in Section 12-II.F.

The following types of services will be provided, depending on the needs of the family:

- Transportation for activities such as, (but not limited to) grocery shopping, job training, education, attending medical and dental appointments, etc.
- Supervised taking of medications
- Treatment for drug addiction (for recovering and current users)
- Treatment for alcohol addiction (for recovering and current users)
- Training and development of housekeeping and homemaking skills
- Family budgeting
- Child care
- Parenting skills
- Computer access and training
- Library access
- Work skills development, job training and employment counseling
- Educational/vocational opportunities
- Case management services and/or counseling
- Access to Health and Psychiatric Services, i.e. nurse/medical staff, mental health professional, etc.
- Life skills training
- Access to on-site/off-site social activities

HACA Policy

Annually, during the recertification process, HACA will examine the families' receipt of supportive services to determine and confirm that the families still qualify to continue receiving PBV assistance. HACA will require families receiving services to provide written evidence from each service provider that the family has received all of the required services stated in the statement of family obligations or FSS contract of family participation. Alternately, each service provider will monitor and submit a report to

HACA identifying the services received by each family, and HACA will document if all services required in the statement of family obligations or FSS contract of participation were received. If the family fails without good cause to receive all of the required services stated in the statement of family obligations or FSS contract of participation between the time of the annual reports, the family and service provider must notify HACA of the failure in writing within 10 business days of the failure.

Promoting Partially-Assisted ~~Buildings~~ Projects [24 CFR 983.56(c)]

HACA may establish local requirements designed to promote PBV assistance in partially assisted ~~buildings~~ projects. A *partially assisted building project* is a ~~building project~~ in which there are fewer units covered by a HAP contract than all residential units [24 CFR 983.3].

HACA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. HACA may also determine not to provide PBV assistance for excepted units, or HACA may establish a per-project cap of less than 25 percent.

HACA Policy:

HACA will not impose any cap beyond HUD regulations on the number of PBV units assisted per project.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

HACA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an ~~AHAP Agreement contract~~ or HAP contract for units on the site, unless HACA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with HACA's Annual Plan under 24 CFR 903 and HACA's administrative plan.

In addition, prior to selecting a proposal, HACA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

HACA Policy

It is HACA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal HACA will limit approval of sites for PBV housing ~~to~~ census tracts that have poverty concentrations of 20 percent or less. In addition, HACA will also limit approval of sites for PBV housing to census tracts that have poverty concentrations that do not exceed the Alameda County or San Francisco-Oakland-Fremont Metropolitan Statistical Area by 20 percent or more.

However, HACA will consider exceptions to these ~~20 percent~~ standards where HACA determines that the PBV assistance will complement other local redevelopment activities

designed to deconcentrate poverty and expand housing and economic opportunities, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

Under no circumstances will HACA approve PBV assistance in a census tract with a concentration factor greater than 75 percent of the community-wide poverty rate.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

HACA may not enter into an ~~AHAP Agreement contract~~ or enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing for elderly persons, be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;

- The site must not be located in an area of minority concentration unless HACA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area;
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

HACA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). HACA may not enter into an ~~AHAP Agreement contract~~ or enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

HACA may not enter into an ~~AHAP Agreement contract~~ or a HAP contract with an owner, and HACA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

HACA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. HACA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. HACA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

HACA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, HACA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, HACA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

HACA must inspect each contract unit before execution of the HAP contract. HACA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, HACA must inspect the unit. HACA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14; PIH-2015-05]

At least once every 24 months~~annually~~ during the term of the HAP contract, HACA must inspect a random sample, consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS.

Turnover inspections are not counted toward meeting this ~~annual~~ inspection requirement.

HACA Policy

Once every 24 months, HACA will inspect, at a minimum, a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the ~~annual~~ biennial sample of inspected contract units in a building fails the initial inspection, HACA must re-inspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

HACA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. HACA must take into account complaints and any other information coming to its attention in scheduling inspections.

HACA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting HACA supervisory quality control HQS inspections, HACA should include a representative sample of both tenant-based and project-based units.

Inspecting HACA-Owned Units [24 CFR 983.103(f)]

In the case of HACA-owned units, the inspections must be performed by an independent agency designated by HACA and approved by HUD. The independent entity must furnish a copy of each inspection report to HACA and to the HUD field office where the project is located. HACA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by HACA.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP (~~AHAP~~Agreement) CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, HACA must enter into an agreement to enter into a HAP contract (Agreement) with the owner of the property. The ~~AHAP~~Agreement must be in the form required by HUD [24 CFR 983.152(ba)]. HACA may not enter into an Agreement if commencement of if construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)] but before execution of the Agreement. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the ~~AHAP~~Agreement, the owner agrees to develop the PBV contract units to comply with HQS and other requirements stated in the RFP, and HACA agrees that upon timely completion of such development in accordance with the terms of the ~~AHAP~~Agreement, HACA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(aeb)].

Content of the ~~AHAP~~Agreement [24 CFR 983.152(ed)]

At a minimum, the ~~AHAP~~Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the ~~AHAP~~Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the ~~AHAP~~Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the ~~AHAP~~Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by HACA, specifications and plans. For new construction units, the description must include the working drawings and specifications;

- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement (~~AHAP~~) [24 CFR 983.153, ~~FR Notice 11/24/08~~]

The ~~AHAP~~Agreement must be executed promptly after HACA has given notice of proposal selection to the selected owner. HACA may not enter into the Agreement if construction or rehabilitation has started either before or after proposal submission. Generally, HACA may not enter into an ~~AHAP~~Agreement with the owner until the subsidy layering review is complete. Likewise, HACA may not enter into an ~~AHAP~~Agreement with the owner until the environmental review is complete and HACA has received environmental approval. However, HACA does not need to conduct a subsidy layering review in the case of a HAP contract for ~~an existing structure housing~~ -or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

HACA Policy

HACA will enter into an ~~AHAP~~Agreement with the selected owner promptly, after receiving 1.) environmental approval, 2.) notice that the subsidy layering requirements, if applicable, have been met, and 3.) Authority to Use Grant Funds, if applicable. The ~~AHAP~~Agreement must be executed before construction or rehabilitation work can startis started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK**Labor Standards [24 CFR 983.154(b)]**

If an ~~AHAP~~Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the ~~AHAP~~Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. HACA must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The ~~AHAP~~Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the ~~AHAP~~Agreement, the HAP contract, or HUD regulations.

17-IV.D. COMPLETION OF HOUSING

The [AHAPA Agreement](#) must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The [AHAPA Agreement](#) must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to HACA in the form and manner required by HACA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the [AHAPA Agreement](#); and
- Certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the HACA's discretion, the [AHAPA Agreement](#) may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HACA Policy

HACA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project and will specify any additional documentation requirements in writing.

HACA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, HACA must inspect the units to determine if the housing has been completed in accordance with the [AHAPA Agreement](#), including compliance with HQS and any additional requirements imposed under the [AHAPA Agreement](#). HACA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the [AHAPA Agreement](#), HACA must not enter into the HAP contract.

If HACA determines the work has been completed in accordance with the [AHAPA Agreement](#) and that the owner has submitted all required evidence of completion, HACA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

HACA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

HACA may not enter into a HAP contract until each contract unit has been inspected and HACA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after HACA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after HACA has inspected the completed units and has determined that the units have been completed in accordance with the AHAPA agreement, and the owner furnishes all required evidence of completion.

HACA Policy

For existing housing, the HAP contract will be executed promptly, pursuant to HACA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed promptly, pursuant to HACA determining that the units have been completed in accordance with the AHAP Agreement (in addition to completing other requirements stated in the RFP) and that all units meet HQS; in addition to the owner having submitted all required evidence of completion.

Term of HAP Contract [~~24 CFR 983.205FR Notice 11/24/08~~]

HACA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than fifteen years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 15 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

HACA Policy

All PBV HAP contracts will be negotiated with the owner for a 15-fifteen-year term.

At the time of execution of the initial HAP contract term or any time before expiration of the HAP contract, HACA may extend the term of the contract for any additional term of up to 15 years period of time deemed appropriate by HACA (additional terms of up to fifteen years but not more than one fifteen year additional term at a time) if HACA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 15 years. HACA-PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 15 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract HACAthe PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. HACA can commit to an extension of the term, at any time, including at the time of the initial contract. In the case of HACA-PHA-owned units, any extension of the term of the HAP contract must be agreed upon by HACAthe PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

HACA Policy

When determining whether or not to extend an expiring PBV contract, HACA will consider several factors including, but not limited to, as applicable,:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities;

- Whether the extension is appropriate to achieve long-term affordability of the housing; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by HACA [24 CFR 983.205(c)]

The HAP contract must provide that the term of HACA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by HACA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, HACA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to HACA. In this case, families living in the contract units must be offered tenant-based assistance.

At its discretion HACA may specify in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA/HACA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Remedies for HQS Violations [24 CFR 983.207/208(b)]

HACA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If HACA determines that a contract unit does not comply with HQS, HACA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HACA Policy

HACA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206207(a)]

At HACA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building project for a previously covered contract unit. Before any such substitution can take place, HACA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206207(b)]

At HACA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per project and on the overall size of HACA's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same project. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

HACA Policy

HACA will consider adding contract units to the HAP contract when HACA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206207(eb) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were first placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209210]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by HACA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; ~~and~~
- The family does not own or have any interest in the contract unit (does not apply to a family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with HACA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

HACA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the AHAPA agreement contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HACA Policy

HACA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. HACA will specify any special design

standards or additional requirements in the invitation for PBV proposals, the [AHAPA Agreement](#), and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of HACA, the HAP contract may provide for vacancy payments to the owner for HACA's-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by HACA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

HACA Policy

For HAP contracts that provide for vacancy payments, HACA will provide vacancy payments to the owner equal to the contract rent in effect at the time of the vacancy for a period not to exceed one month. The HAP contract with the owner will contain the terms under which vacancy payments will be made.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

HACA may select families for the PBV program from those who are participants in HACA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and HACA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to HACA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. HACA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

HACA Policy

HACA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by HACA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on HACA's waiting list. Once the family's continued eligibility is determined (HACA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and HACA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

HACA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. HACA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by HACA. If HACA chooses to offer a separate waiting list for PBV assistance, HACA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If HACA decides to establish a separate PBV waiting list, HACA may use a single waiting list for HACA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or for sets of such units. The type of waiting list selected for the PBV program will be stated in HACA's Request for Proposal.

HACA Policy

HACA will use one waiting list for the tenant-based voucher program, project-based voucher program, and Moderate Rehabilitation program, ~~and the Low Rent Public Housing Program~~. Selection for each program is subject to the federal regulations and requirements for the particular program.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from HACA's HCV waiting list. HACA may establish selection criteria or preferences for occupancy of particular PBV units. HACA may place families referred by the PBV owner on its HCV waiting list, if it is open to such families.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to HACA's tenant-based and project-based voucher programs from the waiting list during the HACA fiscal year ~~from the waiting list~~ must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, HACA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

HACA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. HACA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although HACA is prohibited from granting preferences to persons with a specific disability, HACA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;

- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If HACA has projects with more than 25 percent of the units receiving project-based assistance because those projects include “excepted units” (units specifically made available for elderly or disabled families, or families receiving supportive services), HACA must give preference to such families when referring families to these units [24 CFR 983.261~~251~~(bd)].

HACA Policy

HACA will provide a selection preference when required by the regulations (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units). Additional preferences have been established for the projects, buildings, or sets of units listed in ~~section 17-VI.C. above and can be found in~~ section 4-III.C-Local Preferences-Section 8 Project-Based Voucher Program (PBV).

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

HACA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant’s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under HACA’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner’s units, such rejection may not affect the family’s position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, HACA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, HACA must provide a briefing packet that explains how HACA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, HACA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, HACA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

HACA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by HACA from HACA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on HACA's occupancy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify HACA of any vacancy or expected vacancy in a contract unit. After receiving such notice, HACA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. HACA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HACA Policy

The owner must notify HACA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

HACA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, HACA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

HACA Policy

If any contract units have been vacant for 120 days, HACA may give notice to the owner that the HAP contract may be amended to reduce the number of contract units that have been vacant for this period.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

HACA Responsibility

HACA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, HACA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

HACA Policy

HACA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

HACA must provide the owner with an applicant family's current and prior address (as shown in HACA records) and the name and address (if known by HACA) of the family's current landlord and any prior landlords.

In addition, HACA may offer the owner other information HACA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. HACA must provide applicant families a description of HACA policy on providing information to owners, and HACA must give the same types of information to all owners.

HACA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

HACA Policy

HACA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information. HACA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by HACA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as the HACA model lease.

HACA may review the owner's lease form to determine if the lease complies with state and local law. If HACA determines that the lease does not comply with state or local law, HACA may decline to approve the tenancy.

HACA Policy

HACA will not review the owner's lease for compliance with state and/or local law. However, if HACA becomes aware that an owner's lease does not comply with the state and/or local law, then HACA will require the owner to modify the lease in order to comply with state and/or local law. If the owner does not do [sothis](#) within 15 business days, then HACA will decline to approve the tenancy.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by HACA (the names of family members and any HACA-approved live-in aide);

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f) ~~and 983.257(b)~~]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- HACA~~The PHA~~ terminates the HAP contract
- HACA~~The PHA~~ terminates assistance for the family.

~~Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, HACA must provide the family with a tenant based voucher and remove the unit from the PBV HAP contract.~~

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give HACA a copy of all changes.

The owner must notify HACA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by HACA and in accordance with the terms of the lease relating to its amendment. HACA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may do so in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(eb), FR Notice 11/24/08]

If a family is living in a project-based unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner lease may specify ~~in the lease~~ a maximum period of ~~tenant-family~~ absence from the unit that ~~is may be~~ shorter than the maximum period permitted by HACA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. HACAPHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment made by HACAthe PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

HACA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify HACA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.258259]

The owner may collect a security deposit from the tenant. HACA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

HACA Policy

HACA will allow the owner to collect a security deposit amount the owner determines is appropriate, as long as it does not exceed that allowed under state law.

When the tenant moves out of a 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 owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant in accordance with state law.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. HACA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259260]

If HACA determines that a family is occupying a wrong size unit, based on HACA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, HACA must promptly notify the family and the owner of this determination, and HACA must offer the family the opportunity to receive continued housing assistance in another unit.

HACA Policy

HACA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of HACA's determination. HACA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

If HACA offers the family a tenant-based voucher, HACA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by HACA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, HACA must remove the unit from the HAP contract. However, as referenced in section 5-II.C. for under-housed project-based families, if the family documents that the family's tenant-based voucher expires because the family cannot locate a suitable unit, and the family could remain housed in the project-based unit using the 2+1 rule, HACA will not terminate the housing assistance payments and the family will be allowed to remain in the project-based unit for as long as the family size qualifies for the 2+1 rule.

If HACA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by HACA, or both, HACA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by HACA and remove the unit from the HAP contract.

HACA Policy

When HACA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 60 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 60-day time frame, HACA will terminate the housing assistance payments at the expiration of this 60-day period.

HACA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.~~260~~261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to HACA. If the family wishes to move with continued tenant-based assistance, the family must contact HACA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, HACA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, HACA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

HACA Policy

Prior to assisting currently housed ~~PBV~~~~Project-Based Voucher~~ holders who have priority to receive the next available opportunity for continued tenant-based assistance, HACA will set aside PBVs committed for new projects coming on-line (if applicable) and assist applicants for 1.) Targeted Funding and 2.) FUP Graduates and CHOICES or FACT Programs Graduates as described in section 4-III.C.-Local Preferences-Section 8 Housing Choice Voucher Program (HCV) as these forms of tenant-based assistance have previously been committed and are not available.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.~~261~~262; FR Notice 11/24/08]

HACA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly and/or disabled families; or
- Specifically made available for families receiving supportive services as defined by HACA. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received ~~Family Self-Sufficiency~~ (FSS) supportive services or any other service as defined by HACA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception

(e.g., ~~the~~ a family that does not successfully complete its FSS contract of participation or supportive services requirements, or due to a change in family composition ~~the~~ a family that is no longer elderly or disabled due to a change in family composition where the HACAPHA does not exercise discretion to allow the family to remain in the excepted unit), must vacate the unit within a reasonable period of time established by HACA, and HACA must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by HACA.

HACA may allow a family that initially qualified for occupancy of an excepted unit based on elderly or disabled family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly or disabled family member or long-term or permanent hospitalization or nursing care), the elderly or disabled family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

HACA Policy

HACA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family member's control.

In all other cases, ~~w~~When HACA determines that a family no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception, HACA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 60 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 60-day time frame, HACA will terminate the housing assistance payments at the expiration of this 60-day period. HACA may make exceptions to this 60-day period if needed for reasons beyond the family’s control such as death, serious illness, or other medical emergency of a family member.

HACA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to HACA, HACA may amend the HAP contract to reduce the total number of units under the contract.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the [AHAP Agreement](#) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by HACA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c), [FR Notice 11/24/08](#)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. ~~These Different~~ limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same [building project](#), and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds [the](#) HACA-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

~~However, PHAs are permitted to use the higher Section 8 rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Section 8. In these cases, Section 8 rent reasonableness requirements must continue to be met.~~

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

HACA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where HACA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If HACA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

HACA Policy

HACA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, HACA will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, HACA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, HACA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, HACA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment standard amount for use in the PBV program.

Likewise, HACA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

HACA Policy

Upon written request by the owner, HACA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. HACA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, HACA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if HACA determines it is necessary due to HACA budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

HACA must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from HACA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by HACA. HACA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units ~~that~~ which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

HACA Policy

An owner's request for a rent increase must be submitted to HACA 90 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

HACA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where HACA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Notice of Rent Change

The rent to owner is redetermined by written notice from HACA to the owner specifying the amount of the redetermined rent. HACA's notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

HACA Policy

HACA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

HACA-Owned Units [24 CFR 983.301(g)]

For HACA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. HACA must use the rent to owner established by the independent entity.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by HACA, except where HACA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations are Required

HACA must re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- HACA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, HACA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include unassisted units in the project ~~on the premises~~ that is/are receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by HACA. The comparability analysis may be performed by HACA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

HACA-owned Units

For HACA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for HACA-owned units to HACA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than the rent charged by the owner for other comparable unassisted units on the premises. At any time, HACA may require the owner to submit information on rents charged by the owner for other units on the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not ~~even~~ eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

~~At its discretion, HACA may reduce the initial rent to owner because of other governmental subsidies, including grants and other subsidized financing. To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, HACA shall reduce the rent to owner due to the presence of because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding in the project.~~

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, HACA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and HACA agree on a later date.

Except for discretionary vacancy payments, HACA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by HACA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if HACA determines that the vacancy is the owner's fault.

HACA Policy

If HACA determines that the owner is responsible for a vacancy and, as a result, is not entitled to ~~the~~ keep the housing assistance payment, HACA will notify the owner of the amount of housing assistance payment that the owner must repay. HACA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of HACA, the HAP contract may provide for vacancy payments to the owner. HACA may only make vacancy payments if:

- The owner gives HACA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by HACA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by HACA and must provide any information or substantiation required by HACA to determine the amount of any vacancy payment.

HACA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified HACA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and HACA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by HACA within 10 business days, no vacancy payments will be made.

For HAP contracts that provide for vacancy payments, HACA will provide vacancy payments to the owner equal to the contract rent in effect at the time of the vacancy for a period not to exceed one month.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by HACA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in HACA's notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by HACA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by HACA. The owner must immediately return any excess payment to the tenant.

Tenant and HACA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by HACA.

Likewise, HACA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. HACA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. HACA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, HACA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

HACA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If HACA chooses to pay the utility supplier directly, HACA must notify the family of the amount paid to the utility supplier.

HACA Policy

HACA will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals and/or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

ATTACHMENT B

RECORDING REQUESTED BY:

Housing Authority of the County of Alameda
22941 Atherton Street
Hayward, CA 94541

WHEN RECORDED MAIL TO:

U.S. Department of Housing and
Urban Development
Attn: Office of Regional Counsel
One Sansome Street, Suite 1200
San Francisco, CA 94104

No fee for recording pursuant to
Government Code Section 27383

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**RELEASE OF DECLARATION OF TRUST
(Office/Maintenance, CA067999999)**

This Release of Declaration of Trust ("Release") is made as of the ___ day of _____, 2017, by the UNITED STATES OF AMERICA, acting by and through the SECRETARY OF HOUSING AND URBAN DEVELOPMENT (the "Secretary" or "HUD") with respect to that parcel of property located in the city of Hayward in Alameda County, California, and more particularly described in Exhibit A (the "Property").

WHEREAS, the Housing Authority of the County of Alameda (the "Authority") previously executed and recorded a Resolution Approving and Authorizing Execution and Recordation of Declaration of Trust on March 29, 1977 in the Official Records of Alameda County (the "Official Records") under Recorder's Serial No. 77-56788 relating to the Property described in Exhibit A (the "Declaration of Trust");

WHEREAS, the Declaration of Trust grants to the Secretary certain rights and imposes certain restrictions in favor of the Secretary with respect to the Property;

WHEREAS, the Secretary has approved the sale of the Property to Preserving Alameda County Housing, Inc., a California nonprofit public benefit corporation ("PACH"), and intends for the Declaration of Trust to be terminated and released at the time the Property is conveyed;

WHEREAS, the Secretary conditioned its approval for the sale of the Property on the condition that any proceeds realized from the sale of the Property be used solely for purposes authorized under, and in accordance with, Section 18 of the Act, 24 CFR Part 970, the letter from the Secretary to the Authority dated October 25, 2016 (the "Approval Letter") and/or all other applicable HUD notices and other guidance in effect at the time of such approval, as evidenced by a disposition agreement and

NOW, THEREFORE, upon recordation of this document, the Property described in Exhibit A is hereby discharged and fully released from the Declaration of Trust.

IN WITNESS WHEREOF, the undersigned has caused this Release of Declaration of Trust to be executed as of the date and year first above written.

SECRETARY:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: _____

Name: _____

Its: Director and Authorized Agent
Office of Public Housing

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A
Legal Description

757011999269.4

A

NO FEE REQUIRED
PER GOVERNMENT CODE SECTION 27383

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Robert C. Mills
Goldfarb & Lipman, LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612

No fee for recording pursuant to
Government Code Section 27383

(Space above this line for Recorder's use)

USE AGREEMENT
(Office/Maintenance, CA067999999)

This Agreement (the "Use Agreement") entered into as of this ____ day of _____, 2017 (the "Effective Date"), by and between the Housing Authority of the County of Alameda, a public body, corporate and politic ("HACA"), and Preserving Alameda County Housing, Inc., a California nonprofit public benefit corporation ("PACH"), (collectively, the "Parties"), with respect to that certain property located in the City of Hayward, Alameda County, California, more particularly described in Exhibit A (collectively, the "Property"), formerly known as Office/Maintenance, CA067999999 (the "Project").

Witnesseth:

WHEREAS, acquisition and/or construction of a portion of the Project was financed by the U. S. Department of Housing and Urban Development ("HUD");

WHEREAS, the Project is owned and operated as office and maintenance facilities for the support of low rent public housing by HACA;

WHEREAS, HACA no longer owns and operates any low rent public housing as such term is defined by HUD;

WHEREAS, HACA desires to transfer the Project to PACH;

WHEREAS, HACA has requested HUD approval pursuant to Section 18 of the Act to use the transfer proceeds according to the conditions set forth in that certain letter from HUD to PHA dated October 25, 2016, as thereafter amended (collectively the "Approval Letter"), that certain Disposition Agreement between HUD and PHA dated as of _____ (the "Disposition Agreement"), and this Agreement (collectively, the "HUD Disposition Approval"); and on the further condition that the Project is used to support affordable housing units for a

minimum of thirty (30) years from the date this Agreement is recorded in the official records of the county where the Property is located (the "Restricted Period");

WHEREAS, HUD has approved the transfer of the Project by HACA to PACH, provided that it be used by PACH to support affordable housing units for not less than 30 years;

WHEREAS, in consideration of HUD's approval of the sale of the Property to PACH, HACA and PACH have agreed to enter into this Use Agreement;

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

1. PACH, for itself, its successors and assigns, covenants with HACA that the Property will be utilized to support affordable housing units for a period of not less than thirty (30) years from the Effective Date (the "Use Restriction Period").
2. PACH shall maintain ownership and operation of the property during the Use Restriction Period and shall not convey, sublease or transfer the Property without prior approval from HACA and HUD at any point during the Use Restriction Period; provided, however, that no such approval shall be needed to grant utility easements incidental to the operation of the Property for its intended use.
3. The use restrictions identified herein shall be covenants that run with the land, and shall bind and inure to the benefit of the parties, their successors and assigns, and every party now or hereafter acquiring any right, title or interest therein or in any part thereof.
4. In the event of involuntary transfer of the Property, such as to a secured lender upon default under the security documents or pursuant to foreclosure, such involuntary transfer may occur, with the use restrictions surviving the transfer. Any subsequent transfer shall require prior written approval from HACA and HUD.
5. HACA shall be responsible for monitoring and enforcing the use restrictions identified herein during the Use Restriction Period.
6. In the event of a breach or threatened breach of any of the above covenants and agreements by PACH, HACA shall be entitled to institute legal action to enforce performance and observance of such covenants and agreements and to enjoin any act which is violative of such covenants and agreements.
7. PACH, for itself, its successors and assigns, hereby agrees and acknowledges that this Use Agreement shall be recorded in the appropriate land records and that HACA and any successors and assigns, and HUD and any successors and assigns, may file suit against PACH or any of its successors or assigns for an order of the court demanding specific performance of any of these covenants and agreements, enjoining any acts which are violative of such covenants and agreements, for an award of whatever damages can be proven and/or for such other relief as may be appropriate.

8. PACH 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.

9. This Use Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their successors and assigns.

10. HUD shall be deemed a third party beneficiary of this Use Agreement.

11. This Use Agreement shall be governed, construed and interpreted in accordance with the laws of the State of California, and the Parties shall submit to the jurisdiction of and venue in the courts of the State of California in Alameda County in any legal proceeding necessary to interpret or enforce this Use Agreement or any part of this Use Agreement.

12. 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.

13. This Use Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

In witness whereof, the Parties hereto have hereunto caused these presents to be executed on their behalf effective as of the date and year written above.

PACH:

PRESERVING ALAMEDA COUNTY HOUSING, INC.,
a California nonprofit public benefit corporation

By: _____
Christine Gouig, Secretary

HACA:

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA, a
public body, corporate and politic

By: _____
Christine Gouig, Executive Director

SIGNATURES MUST BE NOTARIZED

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____,
Notary Public, personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____,
Notary Public, personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A
LEGAL DESCRIPTION

A-7

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_____, 2017

Ms. Julie Massey
Escrow Officer
Old Republic Title Company
555 12th Street, Suite 2000
Oakland, CA 94607

Re: 29800 Mission Boulevard, Hayward, CA 94544
Order Number 1117017379-JM

Dear Ms. Massey:

This letter constitutes the joint escrow instructions of the Housing Authority of the County of Alameda, a public body, corporate and politic ("HACA"), and Preserving Alameda County Housing, Inc., a California nonprofit public benefit corporation ("PACH"), in connection with the transaction summarized below regarding the property located in the City of Hayward, California (the "Property"), also known as Office/Maintenance CA067999999 (the "Project"), and as more particularly described in Exhibit A attached hereto.

I. Land Conveyance

A. Construction of a portion the Project was financed by the U. S. Department of Housing and Urban Development ("HUD"). HACA owns and operates the Project as office and maintenance facilities for the support of low rent public housing. PACH desires to purchase the Project and to utilize it for the support of affordable housing units. HUD has approved the sale of the Property by HACA to PACH for the purchase price of one dollar (\$1.00) (the "Purchase Price"). As a condition of this conveyance and to enforce affordability requirements imposed by HUD on the Project, HACA and PACH will execute a use agreement to be recorded on PACH's fee interest in the Property (the "Use Agreement").

II. Existing Encumbrances

A. A declaration of trust executed by HACA, recorded on March 29, 1977 in the Official Records of the County of Alameda (the "Official Records") as Instrument No. 77-56788 and shown as exception number 4 in the preliminary title report issued by Old Republic Title Company ("Old Republic") dated as of November 8, 2016 for Order No. 1117017379 (the "Declaration of Trust") which grants to HUD certain rights and imposes certain restrictions in favor of HUD with respect to all or a portion of the Property. Through this escrow HUD will execute and record that certain Release of Declaration of Trust (the "Release of Declaration of Trust") to remove the Declaration of Trust as an encumbrance against the Property.

B. No other existing encumbrances will be affected by this escrow.

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Ms. Julie Massey
Old Republic Title Company
_____, 2017
Page 2

III. Deposit of Documents into Escrow

A. HACA and PACH will deposit these escrow instructions and the following documents into escrow:

1. The original grant deed, executed by HACA conveying the fee interest in the Property to PACH (the "Grant Deed");
2. Use Agreement; and
3. Release of Declaration of Trust.

IV. Deposit of Funds

Funds will be deposited sufficient to pay all necessary costs and fees to close this escrow in accordance with the estimated settlement statement approved by HACA and PACH (the "Funds").

V. Conditions of Closing

You may close this escrow only upon fulfillment of all of the following conditions:

- A. You hold the documents referred to in Section III above, duly executed and acknowledged where required.
- B. You have inserted the date of recordation and instrument number into all documents, received into escrow pursuant to these instructions, which contain blanks for dates and instrument numbers relating to the date of execution of documents or recordation of documents.
- C. You have ensured that the proper legal description is attached to all documents to be recorded.
- D. You are prepared to issue an CLTA Standard Coverage Owner's Policy of title insurance on the fee interest in the Property naming PACH as the Insured in the amount of \$_____, subject only to exceptions numbered ____ as shown in the preliminary title report for Order No. 1117017379-JM (the "Owner's Title Policy").
- E. You have had verbal or email contact with HACA and PACH's representative Robert C. Mills at (510) 836-6336 or rmills@goldfarbblipman.com, confirming that all other conditions of closing required by the parties hereto have been satisfied.

Ms. Julie Massey
Old Republic Title Company
_____, 2017
Page 3

VI. Recording Requirements

- A. All dates have been inserted where there are blanks and the correct legal descriptions have been attached accordingly.
- B. All HUD documents are to be recorded at no charge pursuant to California Government Code Section 27383, and if a recording fee is charged by the County of Alameda you are to pay the recording fee.
- C. Upon meeting the conditions of closing in Section V above, you are instructed to immediately record in the Official Records of the County of Alameda the documents against the Property, in the order set forth below, collectively known as the "Recording Documents":
 - 1. Release of Declaration of Trust;
 - 2. Grant Deed; and
 - 3. Use Agreement.
- D. Immediately upon recordation of the Documents you are instructed to notify, by telephone or email, HACA and PACH's representative, Robert C. Mills, at (510) 836-6336 or rmills@goldfarbblipman.com.

VII. Disbursement of Funds

- A. You are instructed to disburse to Old Republic the amount necessary to pay the costs of escrow and premiums as described on the estimated settlement statement and approved by HACA and PACH.
- B. You are instructed to disburse the Funds in accordance with the estimated settlement statement as approved by HACA and PACH.
- C. You are instructed to disburse any remaining Funds to HACA and PACH by wire (wiring instructions to be provided).

VIII. Delivery of the Recorded Documents and Policies

You are instructed to deliver the following documents, which, where applicable, are to include recording information certified as correct by Old Republic Title Company, within 72 hours of the close of escrow:

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Ms. Julie Massey
Old Republic Title Company
_____, 2017

Page 4

A set of these escrow instructions signed by Old Republic, final settlement statement, a set of all the conforming Recording Documents, which are to include, where applicable, recording information certified as correct by Old Republic, including duplicate originals, copies of any other documents specified in Section III of these escrow instructions, copies of any and all other documents deposited into escrow, along with an original and one copy of the PACH Owner's Title Policies to:

Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
Oakland, California 94612
Attention: Robert C. Mills.

IX. Costs and Fees

All costs and fees shall be paid from the Funds.

X. Internal Revenue Code Requirements

You shall be responsible for complying with any applicable requirements of Section 6045(e) of the Internal Revenue Code of 1986, as amended.

XI. Amendment, Modification or Revocation

These instructions may be revoked, amended or modified in a writing executed by all parties hereto at any time prior to the close of escrow. HACA and PACH authorize Robert C. Mills or any attorney at Goldfarb & Lipman LLP to sign any revocation, supplement, amendment or modification to these instructions on its behalf. These instructions may be executed in counterparts, each of which shall constitute one and the same instrument.

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HACA AGENDA ITEM NO.: 4-5.

Please acknowledge your agreement to and acceptance of these instructions by signing the enclosed copies of this letter and returning a copy to Robert C. Mills at Goldfarb & Lipman LLP.

Thank you for your assistance.

Sincerely,

HACA:

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA,
a public body, corporate and politic

By: _____
Christine Gouig, Executive Director

PACH:

PRESERVING ALAMEDA COUNTY HOUSING, INC., a
California nonprofit public benefit corporation

By: _____
Christine Gouig, Secretary

The undersigned acknowledges receipt of the above instructions and agrees to proceed in strict accordance therewith.

Old Republic Title Company

By: _____

Its: _____

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EXHIBIT A

LEGAL DESCRIPTION

The land referred to is situated in the County of Alameda, City of Hayward, State of California, and is described as follows:

Parcel 1, "Parcel Map No. 191", etc., filed May 19, 1966, Book 47 of Parcel Maps at Page 93, Alameda County Records.

EXCEPTING THEREFROM that portion deeded to the City of Hayward by Deed recorded June 17, 1987, Series No. 87-170662, Alameda County Records, described as follows:

Beginning at the intersection of the Southeastern line of said Parcel 1, with the Northeastern line of Mission Boulevard, a State Highway, (4-ALA-238), as said Boulevard is shown on said Map; thence along said Northeastern line of Mission Boulevard, North 41° 21' 33" West, 82.18 feet to the intersection thereof with the Northwestern line of said Parcel 1; thence along said Northwestern line of Parcel 1, North 61° 51' 27" East, 8.54 feet; thence South 39° 49' 35" East, 81.70 feet to a point on said Southeastern line said Parcel 1; thence along last said line, South 61° 51' 27" West, 6.30 feet to the point of beginning.

Assessors Parcel No. 083-0251-086-04

ATTACHMENT C

SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASE

BETWEEN

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AND

**COLONY INSURANCE COMPANY on behalf of
WORLD PRIORITY, LLC, a forfeited Limited Liability Company**

This Settlement Agreement and Mutual General Release (“Settlement Agreement”), is made by and among HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA, “a public body, corporate and politic”(“HACA”), and COLONY INSURANCE COMPANY, a Virginia corporation (“COLONY”) on behalf of WORLD PRIORITY, LLC, a forfeited Limited Liability Company, as of the date of approval by HACA Housing Commission (“Effective Date”), in light of the following recitals and consistent with the terms and conditions herein. HACA and COLONY may be referred to herein individually and/or collectively as “Party” or “Parties.”

R E C I T A L S

WHEREAS, on or about July 11, 2013, HACA and WORLD PRIORITY, LLC (“WP”) entered into CONTRACT NO. HOUSING AUTHORITY 2013-03 (“CONTRACT”) for exterior improvements at HACA’s Emery Glen Apartments located at 6200 Doyle Street, Emeryville, California, including the replacement of siding, doors and windows (“PROJECT”);

WHEREAS, COLONY issued to WP Commercial General Liability insurance policies GL4051387 and GL4104831, for the policy periods 4/12/2013-4/12/2014 and 4/12/2014-4/12/2015, respectively (“POLICIES”);

WHEREAS, on March 12, 2015, HACA filed a First Amended Cross-complaint against WP in Alameda County Superior Court, Case No. RG14752066 (“WP Action”), alleging, *inter alia*, that WP breached the CONTRACT by failing to perform or complete the work according to the requirements of the CONTRACT, and that WP’s negligent performance of its work caused physical injury to tangible property of HACA;

WHEREAS, on June 10, 2016, COLONY filed a Complaint in Intervention on Behalf of World Priority, LLC in the WP Action, alleging, *inter alia*, that WP is a defunct entity;

WHEREAS, on June 21, 2016, PHILADELPHIA INDEMNITY INSURANCE COMPANY (“PIIC”), a Pennsylvania corporation qualified to do business as a performance bond surety in the State of California, filed a Complaint for Declaratory Relief in Alameda County Superior Court, Case No. RG16820347 (“PIIC Action”), naming HACA as a Defendant;

WHEREAS, on August 1, 2016, HACA filed a Cross-complaint in the PIIC Action, alleging breach of the Performance Bond issued by PIIC for the PROJECT;

WHEREAS, the PIIC Action is currently stayed pending the result of PIIC’s Motion to Change Venue;

WHEREAS, on September 14, 2016, HACA and COLONY participated in mediation with Mediator Donald Sullivan concerning only those of HACA’s claims and matters in the WP Action as may be or become obligations of COLONY pursuant to the POLICIES, including, *inter alia*, any duty to defend WP’s interests in the WP Action;

WHEREAS, it is the express intent and agreement of the Parties that this Settlement Agreement shall not operate to release or compromise or affect any claims HACA may pursue against PIIC with respect to the matters alleged in the PIIC Action;

WHEREAS, HACA and COLONY now desire to settle all remaining claims and disputes arising out of or relating to the WP Action, and, except as provided herein, the Parties have reached a full and final settlement of all such claims and disputes, which the Parties agree and understand result in a fully-enforceable and binding agreement to settle and release.

NOW, THEREFORE, in reliance on the recitals above, which are acknowledged to be true, and in consideration of the premises and covenants contained herein, the Parties agree as follows:

T E R M S

1. Housing Authority Approval Contingency. The Parties agree that this Settlement Agreement is contingent upon approval and ratification by the HACA Housing Commission. HACA shall present this Settlement Agreement to the HACA Housing Commission at its next available regularly-scheduled meeting, currently expected to be November 9, 2016. In the event the HACA Housing Commission rejects this Settlement Agreement, none of the Parties shall be deemed to have waived any rights with respect to the matters in dispute.

2. Payment and Related Consideration. COLONY shall pay to HACA the total sum of **Ninety Thousand Dollars and No Cents (\$90,000.00)**. The settlement check shall be made payable to “Housing Authority of the County of Alameda” Federal Tax Identification Number: 94-2784334, and, on or before thirty (30) calendar days from 1) providing counsel for COLONY an executed W-9 Form, 2) approval of this Settlement Agreement by the HACA Housing Commission and 3) the granting of a stay, or equivalent relief from incurring further litigation expense, of the WP Action, payment shall be delivered to:

DANNIS WOLIVER KELLEY
 Attn: Cameron C. Ward
 275 Battery Street, Suite 1150
 San Francisco, CA 94111

3. Preservation of Claims Pending Resolution of PIIC Action. The Parties acknowledge that COLONY may or may not be obligated under the POLICIES to defend and indemnify WP with respect to the claims asserted by HACA against WP in the WP Action. The Parties also acknowledge that it is the express intent of this Settlement Agreement:

a) to release WP immediately only from all claims for damages arising from physical injury to tangible property of HACA resulting from the negligent performance of WP’s work, any and all of which claims are enumerated in Exhibit A hereto (“Damage Claims”);

b) that HACA agrees that it will not assert the Damage Claims against PIIC, thereby foreclosing PIIC from seeking indemnity, contribution or subrogation from WP and/or COLONY with respect to the Damage Claims;

c) to preserve, and not to release, all remaining claims not included in Paragraph 3(a) above (“Contract Claims”) until final resolution of the PIIC Action, at which time HACA will release Colony and WP from all remaining claims which have been or which may be asserted by HACA against WP;

d) to avoid or minimize any ongoing expense of prosecuting or defending the WP Action by entering into a stay of the WP Action, to the extent permitted by the Court, until final resolution of the PIIC Action, at which time the WP Action will be dismissed with prejudice. Obtaining an order from the Court granting a stay of the WP Action pending the PIIC Action is a material component to this Settlement Agreement. In the event the Court does not grant a stay of the WP Action, this Settlement Agreement is null and void.

For the purposes of this Settlement Agreement, and this Paragraph 3 in particular, references to the PIIC Action shall include all actions concerning the claims and issues asserted

in Alameda County Superior Court, Case No. RG16820347, and in any related action resulting from a change of venue for Alameda County Superior Court, Case No. RG16820347, and including any related appeals.

4. Management of the WP Action. In order to implement the intent and obligations of this Settlement Agreement, the Parties agree as follows:

a) As soon as practicable following the Effective Date, the Parties shall seek, and cooperate in seeking and maintaining, an immediate stay of the WP Action, which shall remain in effect until final resolution of the PIIC Action.

b) Upon the final resolution of the PIIC Action, HACA shall file a dismissal, with prejudice, of the WP Action, and shall execute a full release of all remaining claims against WP and COLONY, including but not limited to the Contract Claims.

c) Recognizing that the court has the right to control its own proceedings, the Parties agree to cooperate in seeking the court's cooperation in implementing the intent of this Settlement Agreement.

5. General Mutual Release.

Subject to the exceptions stated in this Settlement Agreement, and in particular those exceptions stated in Paragraph 3 above, and excepting the obligations arising out of this Settlement Agreement, HACA, on behalf of itself, and all RELATED ENTITIES, hereby fully and finally settles, releases, relieves, acquits and forever discharges WP and COLONY, and their officers, trustees, Board, employees, administrators, assigns, agents, representatives, attorneys, insurers, experts, consultants, and subcontractors from any and all claims, claims for indemnification or contribution, complaints, causes of action, demands, liabilities, losses, or damages, whether asserted, or could have been asserted, known or unknown, which each Party may now or hereafter have against any other Party and its officers, Board, trustees, employees, administrators, assigns, agents, representatives, attorneys, insurers, experts, consultants, and subcontractors, with respect only to the Damage Claims (as defined in Paragraph 3 above) arising out of or in any way related to the PROJECT.

a) "RELATED ENTITIES" shall refer to any and all past, present and future parent companies, subsidiaries, divisions, subdivisions, affiliates, related corporations, limited liability companies and other entities, general partners, limited partners, partnerships, partners, joint ventures, shareholders, investors, owners, directors, officers, employees, attorneys, insurers, experts, consultants, predecessors, successors, heirs, administrators, executors, trusts, trustees,

Boards, Board members, Commissions, Commission members, fiduciaries, beneficiaries, creditors, assigns, agents and representatives.

6. Exceptions to Release. Notwithstanding any other provision, express or implied, contained in this Settlement Agreement, the following claims, liabilities, demands, losses, causes of action, damages or other matters, whether past, present or future, known or unknown, accrued or unaccrued, legal or equitable, actual or potential, are in no way released, waived, impaired, compromised, or otherwise affected by this Settlement Agreement:

a) All rights or causes of action by HACA for indemnity, contribution, or breach of contract or warranty with respect to any claim by a third party for personal or bodily injuries judged by a court of competent jurisdiction to relate to or to arise out of acts or omissions by WP, or judged by a court of competent jurisdiction to relate to or arise out of the labor, equipment, materials, services or work furnished by WP, provided that HACA first receives notice of any such claim after the date of this Settlement Agreement. HACA warrants that it is not aware of, nor has it received notice of, any claims of personal or personal or bodily injury;

b) Rights, remedies, liabilities, obligations or claims of or by HACA in connection with projects other than the PROJECT.

Any and all such reserved rights and obligations shall survive as they would have existed in absence of this Settlement Agreement.

7. Mutual Release of Unknown Claims. Subject to the exceptions contained in this Settlement Agreement, the Parties, and each of them, understand and agree that, as to the specific issues released herein only, the foregoing releases are a full and final release applying to all claims encompassed in this Settlement Agreement of every nature and kind whatsoever, whether known or unknown, suspected or unsuspected, past or present. The Parties, and each of them, also understand and agree to waive the provisions of California Civil Code Section 1542 as to the specific issues released herein only, which provide:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with debtor.

The Parties have been and are represented by legal counsel, and they understand and acknowledge the significance and consequence of this waiver of California Civil Code Section

1542 and hereby assume full responsibility for any injuries, damages, losses, or liabilities that they may hereafter result there from as to the specific issues released herein only.

8. No Admission of Fault. The Parties agree and acknowledge that liability is disputed, and this Settlement Agreement is entered into as a compromise to resolve certain contested claims and avoid substantial costs, expenses and uncertainties associated with otherwise resolving the Parties' disputes arising out of the PROJECT. The Parties agree and acknowledge that neither the execution nor the performance of any terms of this Settlement Agreement shall constitute or be construed as an admission of any fact, claim, or allegation of liability or responsibility on the part of any Party, and/or of any liability or any fact or indication that any of the claims or defenses made have any merit.

9. Confidentiality. The Parties further agree that maintaining the confidentiality of the mediation, negotiations and discussions leading to this Settlement Agreement are, to the extent permitted by law, a condition hereof and part of the consideration giving rise to the Agreement.

10. Authority. The Parties each represent and warrant to each other that each has full power and authority to enter into this Settlement Agreement and acknowledge and agree that these representations and warranties are essential and material terms of this Settlement Agreement.

11. No Assignment. The Parties hereto represent and warrant that they have not heretofore assigned or transferred or purported to transfer or assign to any person, firm, corporation, or other entity any claim, demand, damage, debt, liability, action or cause of action herein released.

12. Entire Understanding. This Settlement Agreement constitutes the entire understanding of the Parties with respect to the matters herein set forth. None of the Parties hereto have made any statement, representation, warranty, agreement, arrangement, understanding, oral or written, in connection herewith which has been relied upon by any other Party hereto, or which has been an inducement for any Party to enter into this Settlement Agreement, except as expressly set forth herein. This Settlement Agreement may not be altered, amended, modified or otherwise changed in any respect whatsoever, except by a writing duly executed by the Parties. The Parties, and each of them, agree that they will make no claim at any time that this Settlement Agreement has been altered or modified or otherwise changed by oral communication of any kind or character. The Parties, and each of them, have carefully read and

understand the contents of this Settlement Agreement and sign it as their own free act pursuant to the advice of their respective legal counsel.

13. Binding Effect. This Settlement Agreement shall be binding upon, and inure to the benefit of the Parties and each of their respective legal successors, heirs, administrators assigns, affiliates, agents, attorneys, and other representatives, and each of them.

14. Enforceability. This Settlement Agreement is specifically enforceable under Section 664.6 of the Code of Civil Procedure. In any proceeding to enforce any rights and/or construe any obligations hereunder, the prevailing party in such proceeding shall be entitled to recover its reasonable attorneys' fees and costs incurred.

15. Counterparts. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Settlement Agreement binding all the Parties hereto.

16. No Unwritten Waiver of Breach. No breach of any provision of this Settlement Agreement can be waived unless it is done so in writing. Waiver of any one breach shall not be deemed to be a waiver of any other breach of the same or any other provision hereof.

17. Governing Law. This Settlement Agreement shall be construed under and shall be governed by the laws of the State of California, notwithstanding any choice of law statutes, or requirements to the contrary.

18. Joint Preparation of Agreement. This Settlement Agreement or any uncertainty or ambiguity herein shall not be construed against any of the Parties but shall be construed as if all the Parties jointly prepared this Settlement Agreement. The Parties, and each of them, expressly waive the provisions of California Civil Code Section 1654.

19. Severability. If any provision or any part of any provision of this Settlement Agreement shall for any reason be held to be invalid, unenforceable, or contrary to public policy or any law, the invalidity of that provision or part of that provision of this Settlement Agreement shall not affect the enforceability of the remainder of this Settlement Agreement.

20. Headings and Recitals. Headings within this Settlement Agreement are used for convenience only and shall not be employed in interpreting this Settlement Agreement, or any portion thereof, in the event of any dispute between the Parties related to this Settlement Agreement. The Recitals set forth above are incorporated herein by reference.

21. Other Documents and Actions. The Parties, and each of them, agree to execute such other documents and to take such actions as may be reasonably necessary to effectuate the purposes of this Settlement Agreement.

22. Signatories. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Settlement Agreement on behalf of the Party for whom he or she purports to sign.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties have caused this Settlement Agreement to be executed on the day and year written below.

Approved as to Form:

OFFICE OF COUNTY COUNSEL

Quincy Beaman
Donna R. Ziegler
Brian Washington
Audrey A. Besman
Attorneys for Housing Authority Of The
County Of Alameda

11/18/16

Dated:

Approved as to Form:

DANNIS WOLIVER KELLEY

Mark W. Kelley
Cameron C. Ward
Lauren M. Charneski
Attorneys for Housing Authority of the
County of Alameda

Dated:

Approved as to Form:

SIMS, LAWRENCE & ARRUTI

Jordan A. Rodman
Attorneys for Intervenor COLONY
INSURANCE COMPANY on behalf of
Cross-Defendant WORLD PRIORITY,
LLC, a forfeited Limited Liability Company

Dated:

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

Christine Gouig
Christine Gouig
Executive Director

11-17-16

Dated:

Dated:

COLONY INSURANCE COMPANY on behalf of Cross-Defendant WORLD PRIORITY, LLC, a forfeited Limited Liability Company

[NAME]
[TITLE]

Dated:

**Exhibit A
Damage Claims**

A. UNIT 5: WORK PERFORMED BY B BROS CONSTRUCTION, INC.	
Interior Remediation	Cost
<u>Kitchen and Dining</u> – remove/replace drywall; remove/treat mold; properly install new window; replace damaged sheetrock; repair damaged area surrounding patio door frame and properly seal; replace and install wood base and upper cabinets, sink, countertops, backsplash, which were removed due to water intrusion and mold. (See HACA2103-2112; see also HACA2113-2132.)	\$7,040.00
<u>Bathroom</u> – repair damaged area surrounding window and properly seal; replace damaged sheetrock; install bathtub, toilet, vanity, which were removed due to water intrusion and mold. (See HACA2103-2112; see also HACA2113-2132.)	\$3,830.00
<u>Flooring</u> – install new vinyl flooring and carpeting, post water intrusion. (See HACA2103-2112; see also HACA2113-2132.)	\$7,640.00
<u>Painting</u> – prep, prime, and paint. (See HACA2103-2112; see also HACA2113-2132.)	\$4,730.00
<u>Final Clean</u> (See HACA2103-2112; see also HACA2113-2132.)	\$495.00
<u>Change Order 1</u> - work for additional interior remediation in kitchen. Contractor performing remediation discovered WPI had punctured a water pipe with a nail, causing an additional point of water intrusion. Contractor then had to remove and replace plumbing and drywall, paint, etc. (See HACA2103-2112; see also HACA2113-2132.)	\$4,461.95
<u>Change Order 2</u> – work for additional exterior remediation in after finding WPI had punctured a pipe with a nail. (See HACA2103-2112; see also HACA2113-2132.)	989.78
Unit 5 Total:	\$29, 186.73
B. UNIT 5 & 6: WORK PERFORMED BY CNW CONSTRUCTION, INC.	
Exterior Remediation	Cost
<u>Bathroom</u> – repair water-damaged area surrounding windows of abutting Units 5 and 6. (See HACA2519-2521, HACA2503-2508.)	\$7,167
Unit 6 Total:	\$7,167
C. UNIT 27: WORK PERFORMED BY BAY CITIES	
Interior Remediation	Cost
<u>Kitchen and Dining</u> – remove/replace drywall; remove/treat mold; properly install new window; replace damaged sheetrock; repair damaged area surrounding patio door frame and properly seal; replace and install wood base and upper cabinets, sink, countertops, backsplash, which were removed due to water intrusion and mold. (See HACA2027-2030, HACA2081.)	\$6,250.00
<u>Bathroom</u> – repair damaged area surrounding window and properly seal; replace damaged sheetrock; install bathtub, toilet, vanity, which were removed due to water intrusion and mold. (See HACA2027-2030, HACA2081.)	\$5,850.00
<u>Flooring</u> – install new vinyl flooring and carpeting, post water intrusion. (See HACA2027-2030, HACA2081.)	\$3,500.00
<u>Painting</u> – prep, prime, and paint. (See HACA2027-2030, HACA2081.)	\$3,000.00
<u>Final Clean</u> (See HACA2027-2030, HACA2081.)	\$500.00
Unit 27 Total:	\$19,100

D. UNIT 28: WORK PERFORMED BY BAY CITIES	
Interior Remediation	Cost
<u>Kitchen and Dining</u> – remove/replace drywall; remove/treat mold; properly install new window; replace damaged sheetrock; repair damaged area surrounding patio door frame and properly seal; replace and install wood base and upper cabinets, sink, countertops, backsplash, which were removed due to water intrusion and mold. (See HACA2027-2030, HACA2081.)	\$6,250.00
<u>Bathroom</u> – repair damaged area surrounding window and properly seal; replace damaged sheetrock; install bathtub, toilet, vanity, which were removed due to water intrusion and mold. (See HACA2027-2030, HACA2081.)	\$5,850.00
<u>Flooring</u> – install new vinyl flooring and carpeting, post water intrusion. (See HACA2027-2030, HACA2081.)	\$3,500.00
<u>Painting</u> – prep, prime, and paint. (See HACA2027-2030, HACA2081.)	\$3,000.00
<u>Final Clean</u> (See HACA2027-2030, HACA2081.)	\$500.00
Unit 28 Total:	\$19,100
E. UNITS 5, 27, 28: WORK PERFORMED BY TSM CONSTRUCTION	
Interior Remediation	Cost
Removal of Water-Damaged Materials: remove water-damaged materials at unit 5 kitchen and bathroom. (See HACA1240.)	\$3,585.36
<u>Emergency Mold Removal</u> : remove sheetrock at kitchen walls and ceiling; remove sheetrock in bathroom. (See HACA2406-2407.)	\$1,950.00
Emergency Total	\$5,535.36
F. EMERY GLENN: WORK PERFORMED BY WATER INTRUSION AND MOLD CONSULTANTS	
Investigation of Resulting Damage	Cost
<u>Forensic Analytical Consulting Services</u> : investigate and analyze mold found at Unit 5; investigation of other units, air monitoring, mold reports. (See HACA2189, HACA1225.)	\$37,487.50
Mold Investigation Total	\$37,487.50
<u>TOTAL</u>	\$117,610.00