

Attachment ____ – Rental Assistance Demonstration (RAD) Chesapeake Redevelopment and Housing Authority (CRHA) is amending its 2020 Annual and 2020-2024 5-year PHA Plan because it was a successful applicant in the Rental Assistance Demonstration (RAD). As a result, CRHA will be converting to Project Based Vouchers and/or Project Based Rental Assistance under the guidelines of H 2019-09/PIH 2019-23, Final Implementation, REV-4 and any successor Notices. Upon conversion to Project Based Vouchers and/or Project Based Rental Assistance the Authority will adopt the resident rights, participation, waiting list and grievance procedures listed in: for conversions to PBV: Section 1.6 of H 2019-09/PIH 2019-23, Final Implementation, REV-4; and H-2016-17/PIH-201617; for conversions to PBRA: Section 1.7 of H 2019-09/PIH 2019-23, Final Implementation, REV-4; and H-201617/PIH-2016-17. These resident rights, participation, waiting list and grievance procedures are appended to this Attachment. Additionally, CRHA certifies that it is currently compliant with all fair housing and civil rights requirements. RAD was designed by HUD to assist in addressing the capital needs of public housing by providing CRHA with access to private sources of capital to repair and preserve its affordable housing assets. Please be aware that upon conversion, the Authority's Capital Fund Budget will be reduced by the pro rata share of Public Housing Developments converted as part of the Demonstration, and that CRHA may also borrow funds to address their capital needs. [Insert only if applicable: The (insert PHA name here) will also be contributing Operating Reserves in the amount of \$XXX, Capital Funds in the amount of \$XXX towards the conversion, and/or Replacement Housing Factor (RHF) Funds in the amount of \$XXX towards the conversion.] [Insert only if applicable: The (insert PHA name here) currently has debt under the Capital Fund Financing Program and will be working with (insert lender or bond trustee name) to address outstanding debt issues, which may result in additional reductions of Capital Funds.] [Insert only if applicable: The (insert PHA name here) currently has debt under an Energy Performance Contract and will be working with (insert EPC provider's name) to address outstanding debt issues, which may result in additional reductions of Capital or Operating Funds.]

Attachment 1D - Requirements for RAD-Specific Significant Amendment Submissions

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Below, please find specific information related to the Public Housing Development(s) selected for RAD:

Development #1 Name of Public Housing Project: MacDonald Manor

PIC Development ID: Conversion type (i.e., PBV or PBRA): PBRA

Transfer of Assistance: (if yes, please put the location if known, and # of units transferring)

Total Units: Pre- RAD Unit Type (i.e., Family, Senior, etc.): 152 Family Units

Post-RAD Unit Type if different (i.e., Family, Senior, etc.) Family

Capital Fund allocation of Development: (Annual Capital Fund Grant attributable to the Project, if known) OR, (Total Annual Capital Fund allocation divided by total number of public housing units in PHA, multiplied by total number of units in project)

Bedroom Type Number of Units Pre-Conversion:

1 bedroom	3
2 bedroom	114
3 bedroom	35

Number of Units Post-Conversion 152

Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.) no change

Studio/Efficiency One Bedroom Two Bedroom Three Bedroom Four Bedroom Five Bedroom Six Bedroom (If performing a Transfer of Assistance): (Explain any changes in in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted)

Resident Rights, Participation, Waiting List and Grievance Procedures If converting to PBRA:

1.7 Special Provisions Affecting Conversions to PBRAs-see Appendices to Amendment

Development #2 Name of Public Housing Project: Broadlawn

PIC Development ID: Conversion type (i.e., PBV or PBRA): undetermined

Transfer of Assistance: (if yes, please put the location if known, and # of units transferring)

Total Units: Pre- RAD Unit Type (i.e., Family, Senior, etc.): 170 Family units

Post-RAD Unit Type if different (i.e., Family, Senior, etc.) undetermined

Capital Fund allocation of Development: (Annual Capital Fund Grant attributable to the Project, if known) OR, (Total Annual Capital Fund allocation divided by total number of public housing units in PHA, multiplied by total number of units in project)

Bedroom Type Number of Units Pre-Conversion:

1 bedroom	22
2 bedroom	68
3 bedroom	52
4 bedroom	24
5 bedroom	4

Number of Units Post-Conversion undetermined

Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.) undetermined

Studio/Efficiency One Bedroom Two Bedroom Three Bedroom Four Bedroom Five Bedroom Six Bedroom (If performing a Transfer of Assistance): (Explain any changes in in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted)

Resident Rights, Participation, Waiting List and Grievance Procedures If converting to PBV: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.6.C & Section 1.6.D, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan) If converting to PBRA: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.7.B & Section 1.7.C, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan) 1.6 or 1.7 Special Provisions Affecting Conversions to PBRAs-see Appendices to Amendment

Potential Future RAD Conversions Include:

Development #3 Name of Public Housing Project: Peaceful Village

PIC Development ID: Conversion type (i.e., PBV or PBRA):

Transfer of Assistance: (if yes, please put the location if known, and # of units transferring)

Total Units: Pre- RAD Unit Type (i.e., Family, Senior, etc.): 65 Family Units

Post-RAD Unit Type if different (i.e., Family, Senior, etc.) Family

Capital Fund allocation of Development: (Annual Capital Fund Grant attributable to the Project, if known) OR, (Total Annual Capital Fund allocation divided by total number of public housing units in PHA, multiplied by total number of units in project)

Bedroom Type Number of Units Pre-Conversion

Number of Units Post-Conversion

Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.)

Studio/Efficiency One Bedroom Two Bedroom Three Bedroom Four Bedroom Five Bedroom Six Bedroom (If performing a Transfer of Assistance): (Explain any changes in in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted)

Resident Rights, Participation, Waiting List and Grievance Procedures If converting to PBV: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.6.C & Section 1.6.D, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan) If converting to PBRA: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.7.B & Section 1.7.C, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan) 1.6 or 1.7 Special Provisions Affecting Conversions to PBRAs-see Appendices to Amendment

Development #4 Name of Public Housing Project: Owens Village

PIC Development ID: Conversion type (i.e., PBV or PBRA):

Transfer of Assistance: (if yes, please put the location if known, and # of units transferring)

Total Units: Pre- RAD Unit Type (i.e., Family, Senior, etc.): 56 Family Units
Post-RAD Unit Type if different (i.e., Family, Senior, etc.)
Capital Fund allocation of Development: (Annual Capital Fund Grant attributable to the Project, if known) OR, (Total Annual Capital Fund allocation divided by total number of public housing units in PHA, multiplied by total number of units in project)
Bedroom Type Number of Units Pre-Conversion
Number of Units Post-Conversion
Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.)
Studio/Efficiency One Bedroom Two Bedroom Three Bedroom Four Bedroom Five Bedroom
Six Bedroom (If performing a Transfer of Assistance): (Explain any changes in in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted)
Resident Rights, Participation, Waiting List and Grievance Procedures If converting to PBV: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.6.C & Section 1.6.D, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan) If converting to PBRA: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.7.B & Section 1.7.C, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan)
1.6 or 1.7 Special Provisions Affecting Conversions to PBRAs-see Appendices to Amendment

Development #5 Name of Public Housing Project: Schooner Cove
PIC Development ID: Conversion type (i.e., PBV or PBRA):
Transfer of Assistance: (if yes, please put the location if known, and # of units transferring)
Total Units: Pre- RAD Unit Type (i.e., Family, Senior, etc.): 24 Family Units
Post-RAD Unit Type if different (i.e., Family, Senior, etc.)
Capital Fund allocation of Development: (Annual Capital Fund Grant attributable to the Project, if known) OR, (Total Annual Capital Fund allocation divided by total number of public housing units in PHA, multiplied by total number of units in project)
Bedroom Type Number of Units Pre-Conversion
Number of Units Post-Conversion
Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.)
Studio/Efficiency One Bedroom Two Bedroom Three Bedroom Four Bedroom Five Bedroom
Six Bedroom (If performing a Transfer of Assistance): (Explain any changes in in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted)
Resident Rights, Participation, Waiting List and Grievance Procedures If converting to PBV: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.6.C & Section 1.6.D, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan) If converting to PBRA: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.7.B & Section 1.7.C, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan)
1.6 or 1.7 Special Provisions Affecting Conversions to PBRAs-see Appendices to Amendment

Significant Amendment Definition: As part of the Rental Assistance Demonstration (RAD), CRHA is redefining the definition of a substantial deviation from the PHA Plan to exclude the following RAD-specific items: a. The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance; b. Changes to the Capital Fund Budget produced as a result of each approved RAD Conversion, regardless of whether the proposed conversion will include use of additional Capital Funds; c. Changes to the construction and rehabilitation plan for each approved RAD conversion; and d. Changes to the financing structure for each approved RAD conversion.

Appendices to Amendment

1.6 Special Provisions Affecting Conversions to PBVs

Under the Demonstration, HUD has the authority to waive statutory and regulatory provisions governing the PBV program, or to establish alternative requirements for the effective conversion of assistance. Additionally, the RAD Statute imposes certain unique requirements and authorizes HUD to establish requirements for converted assistance under the Demonstration.

Listed below are the “special” requirements applicable to public housing projects converting assistance to long-term PBV assistance under the First Component of the Demonstration, with reference to the affected statute and/or regulation, where applicable. Special requirements are grouped into four categories: Project Selection, Contract Terms, Resident Rights and

29 Section 33 of the Act requires PHAs to identify projects that must be removed from the stock of public housing.

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MTW agencies will be able to apply activities impacting the PBV program that are approved in their MTW Plans or included in the MTW Supplement to an approved PHA plan to these properties as long as they do not conflict with RAD requirements. RAD requirements include RAD statutory requirements, provisions of the PBV program specifically addressed in this Notice (including provisions explicitly listed in Section 1.6 of this Notice as provisions of the PBV program that MTW agencies may not alter for properties converting under RAD), other conditions and requirements of this Notice, or RAD contract forms or riders. With respect to any existing PBV regulations that are waived or modified in this Section 1.6 pursuant to RAD authority, except where explicitly noted below, MTW agencies may modify these or other requirements of the PBV program if the activity is approved in its MTW Plan or included in the MTW Supplement to an approved PHA plan. All other RAD Requirements listed below or elsewhere in this Notice shall apply to MTW agencies.

So as to facilitate the uniform treatment of residents and units at a Covered Project, any nonRAD PBV units located in the Covered Project shall be subject to the same waivers and alternative requirements where noted below.

Finally, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and HUD's implementation notices³⁰ ("HOTMA Implementation Notice") modified the PBV program in ways that partially or completely obviate the need for certain prior waivers or alternative requirements adopted in RAD. These are noted below.

A. PBV Project Selection. 1. PBV Percentage Limitation. Covered Projects do not count against the percentage limitation applicable to the PBV program. The HOTMA Implementation Notice excludes formerly assisted properties from the percentage limitation. For any Covered Projects not otherwise covered under the HOTMA Implementation Notice, including transfers of assistance to a new location, HUD is waiving section 8(o)(13)(B) of the Act as well as 24 CFR § 983.6 with respect to Covered Projects. As a result, a PHA that is administering RAD PBV assistance does not take the RAD PBV into consideration when calculating the percent limitation for any non-RAD PBV actions that are subject to the percent limitation. In other words, RAD PBV is excluded from

³⁰ See "January 18, 2017 HOTMA implementation notice, 82 Fed. Reg. 5458," and the "July 14, 2017 technical correction and clarification notice, 82 Fed. Reg. 32461." Also see Notice PIH 2017-21.

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2. Cap on the Number of PBV Units in Each Project. There is no cap on the number of units that may receive RAD PBV assistance in each project. Under the HOTMA Implementation Notice, certain formerly assisted properties are excepted from the project cap. For any Covered Projects not covered under the HOTMA Implementation Notice, including transfers of assistance to a new location, HUD is waiving section 8(o)(13)(D) of the Act, as well as related provisions of 24 CFR §§ 983.56, 983.257(b), 983.262(a) and (d). Accordingly, units under the contract may not be "excepted" for a specified purpose.

3. Owner Proposal Selection Procedures. In addition to situations already covered under the HOTMA Implementation Notice (e.g., attaching PBV assistance to PHA-owned units that were formerly assisted under the public housing program), HUD is waiving 24 CFR § 983.51 so that a RAD PBV HAP contract is never subject to competitive selection requirements. With respect to site selection standards, HUD requires compliance with the site selection standards as set forth in this Notice.

4. Site selection – Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24 CFR § 983.57(b)(1) and (c)(2). HUD waives these provisions having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site. To facilitate the uniform

treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

B. PBV Contract Terms. 1. Length of Contract. Covered Projects shall have an initial HAP Contract term of at least 15 years (up to 20 years upon request of the Project Owner and with approval by the administering Voucher Agency). To implement this provision, HUD is specifying alternative requirements for section 8(o)(13)(F) of the Act (which permits a minimum term of one year) as well as 24 CFR § 983.205(a) (which governs contract term). Project Owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the contract and may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request post-conversion to reduce the number of assisted units under the contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

2. Mandatory Contract Renewal. In accordance with the RAD Statute, at or prior to Section I: Public Housing Projects

H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration REV-4 – Final Implementation 54 the expiration of the initial contract and each renewal contract, the administering Voucher Agency must offer, and the Project Owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. The renewal contract(s) shall be for the prescribed number and mix of units but may, upon request of the Project Owner and subject to HUD and Contract Administrator approval, be on one or more transfer of assistance sites in lieu of the project site subject to the expiring contract. Consequently, section 8(o)(13)(G) of the Act, as well as 24 CFR § 983.205(b), governing the PHA discretion to renew the contract, will not apply to the extent that these provisions make renewal or extension decisions purely discretionary. However, Contract Administrators and Project Owners may choose to extend the initial HAP Contract term consistent with these provisions and are encouraged to do so a minimum of one year prior to the expiration of the contract so as to avoid unnecessary notice to residents per 24 CFR 983.206. The ability to extend the HAP Contract term consistent with these provisions does not negate, in any way, the mandatory renewal provision detailed in the first sentence of this paragraph. MTW agencies may not alter this requirement.

3. Ownership or Control. This section has been moved to Section 1.4.A.11

4. RAD Use Agreement. This section has been moved to Section 1.4.A.13

5. Initial Contract Rent Setting. No additional or incremental funding is associated with this Demonstration. HUD has calculated initial contract rents for every public housing project based on each project's subsidy under the public housing program. All RAD applications, including applications for Portfolio Awards, will have initial contract rents based on their "RAD rent base year" described in Attachment 1C. PHAs have additional discretion in establishing initial contract rents using the following flexibilities:

a. MTW Fungibility. MTW agencies may use their MTW funds to set the initial contract rents higher than the normally applicable contract rent cap that is based on the project's public housing subsidy. However, the initial contract rent set by the PHA is still subject to all other applicable program caps. The agency must use existing MTW funds to supplement the initial contract rents; HUD will only provide new incremental voucher funding for the first full calendar year following conversion using per unit costs (PUCs) based on normally applicable public housing subsidy initial rent caps. Any use of MTW funds in setting higher initial contract rents shall be subject to subsidy layering review and MTW continued service

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b. Rent Bundling. Subject to HUD approval, PHAs may adjust subsidy (and initial contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. For example, assume that a PHA is considering bundling two identical projects, both consisting of 100 units. In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The PHA could bundle the two projects such that the initial contract rents for both projects will be \$550. This use, which HUD refers to as “bundled” rents, can occur under the following scenarios: i. When a PHA is converting two or more properties within its public housing portfolio. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract; ii. When PHAs have formed a Partnership in accordance with Section 1.5.M and are bundling rents between two or more converting projects. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract; and iii. When a PHA bundles rents between a converting project and non-RAD Project-Based Vouchers. In such a case, the PHA must use its own voucher funding to supplement the higher RAD rent that is being offset by the lower PBV rent for the non-RAD PBV project or projects; no additional voucher funding will be provided through RAD. HUD will review the rents proposed for the non-RAD PBV HAP Contract to ensure that the PHA does not exceed the aggregate subsidy otherwise available for all of the rent-bundled projects. Except as provided in section 1.6.B.d below, the execution and effective date of the HAP Contract for the donor project must occur prior to or simultaneous with the effective date of the recipient HAP Contract. The owner of the property with the non-RAD PBV HAP Contract must request an initial rent (or redetermined rent if the contract has already been executed) in accordance with 24 CFR §§ 983.301(b)(3) and 983.302 that reflects the amount approved by HUD. To ensure that aggregate HAP costs do not exceed the costs incurred absent

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983.301(b) more generally. The donor HAP Contract must have a remaining contract term at least as long as the recipient HAP Contract. iv. Where an Agreement to enter into a HAP Contract (AHAP) is used on the non-RAD PBV HAP Contract and the RAD and nonRAD PBV projects are subject to a single financing, the execution and effective date of the AHAP for the donor HAP Contract must occur prior to or simultaneous with the conversion of the recipient HAP Contract. The recipient RAD PBV HAP Contract will include rent schedules for both unadjusted rents and the anticipated rent bundled rents. The unadjusted rents are the initial effective rents for the RAD PBV recipient project. At the completion of rehab/construction of the donor project, where the terms of the AHAP have been satisfied and the PHA and owner of the donor property are ready to execute a HAP contract, the cost-neutral application of the bundled rents will occur. 1) the HAP for the non-RAD PBV HAP Contract will be determined based on the initial rent, which is the PBV rent the project would have been eligible for under the PBV initial rent requirements at 24 CFR § 983.301 reduced by the amount that has been bundled to the RAD HAP Contract. 2) Upon the effective date of the nonRAD PBV donor HAP Contract, the HUD-approved rent bundled rents at the RAD HAP Contract will become effective. For example, assume two 100 unit properties that will be redeveloped under a single financing transaction, one developed under standard PBV through an AHAP and another through RAD. The estimated rents for the standard PBV are \$1,000 while the standard RAD rents are \$500. The PHA plans to rent bundle to increase the RAD rents to \$750. Construction will occur on the same timeline and the RAD PBV HAP Contract will close at the same time as the AHAP is executed. The RAD PBV HAP Contract will include unadjusted, pre-construction rents (\$500) as well as adjusted, post-construction rents (\$750). The AHAP will include estimated PBV rents, adjusted downward by \$250. When construction is completed, the post-construction rents on the RAD HAP Contract will take effect when the donor non

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RAD PBV HAP Contract becomes effective. The PHA will determine the initial contract rents for the non-RAD PBV donor project in accordance with PBV requirements and deduct \$250 from that amount.

Please note that per Section 1.13.B.5, regardless of the initial contract rents for the RAD HAP Contract, including as modified by this provision, in the year of conversion the Covered Project will only be assisted by the Operating and Capital Funds obligated to the PHA for that project.

c. Future Replacement Housing Factor (RHF) or Demolition Disposition Transition Funding (DDTF).³¹ PHAs that are scheduled to receive ongoing RHF or DDTF funding (funds that have not been awarded and, with HUD permission, funds that have been awarded but not yet disbursed) may choose to forgo any ongoing RHF or DDTF grants for the purpose of offsetting an increase to the RAD rent. See Attachment 1C for the calculation of how RHF or DDTF funding may offset increased RAD rent.

d. PBV Site-Specific Utility Allowances. PHAs may elect to establish a site-specific Utility Allowance for any Covered Project. HUD is waiving 24 CFR 983.2(c)(6)(iii), which requires the PHA to apply the

HCV Utility Allowance schedule for PBV properties, and HUD is establishing an alternative requirement. The Utility Allowance shall be calculated consistent with Notice H 2015-04 unless PIH promulgates guidance specific to the PBV program. The Project Owner may carry out all of the responsibilities associated with Notice H 2015-04, but the PHA must ensure that the Utility Allowance is calculated correctly. This waiver and alternative requirement shall also apply to non-RAD PBV units located at the Covered Project.

e. Tenant-Paid Utility Savings. Where a Covered Project will use a sitespecific utility allowance as described in sub-paragraph iv. and the conversion will result in the reduction of one or more utility components (e.g., gas, water & sewer, electric) used to establish the Utility Allowance relative to the utility allowance of the Converting Project (i.e., the public

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Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications to the initial contract rent permitted under this Notice, initial PBV contract rents are subject to the statutory and regulatory PBV requirements governing contract rents (see 24 CFR § 983.301), (except where alternative rent caps have been approved in a MTW Plan or included in an MTW Supplement to the PHA Plan). To this effect, initial contract rents cannot exceed the lower of: (a) the reasonable rent (as defined under 24 CFR § 983.303); (b) an amount determined by the PHA, not to exceed 110 percent of the applicable FMR (or applicable exception payment standard, or rent cap approved in an MTW Plan or included in an MTW Supplement to the PHA Plan), minus any utility allowance; or (c) the rent requested by the owner.

6. Method of Adjusting Contract Rents. Contract rents will be adjusted only by HUD's OCAF (which is applied only to the portion of the rent not attributable to debt service) at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract term.³² As such, section 8(o)(13)(I) of the Act and 24 CFR §§ 983.301 and 983.302, concerning rent determinations, shall not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the Contract Administrator in accordance with 24 CFR § 983.303.³³ However, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP Contract.³⁴ MTW agencies may not alter this requirement.

7. Role of Independent Entity. Where the Covered Project is PHA-owned in accordance with section 8(o)(11) of the Act as amended by HOTMA (see Attachment A in Notice PIH 2017-21 for guidance on PHA-owned units), in addition to the standard roles described in 24 CFR 983.59(b) (i.e., determining reasonable rents and

32 OCAFs are calculated and published each year by HUD in the Federal Register in order to calculate the contract rent for the project in the following fiscal year. 33 If the Covered Project is deemed to be PHA-owned pursuant to HUD guidance, an independent entity will need to perform the rent-setting and inspection functions set out in 24 CFR § 983.59. 34 The rent to owner may fall below the initial contract rent: 1) to correct errors in calculations in accordance with HUD requirements; 2) 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 § 983.55 (Prohibition of excess public assistance); or 3) if a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

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8. Transfer of Assistance. This section has been moved to Section 1.4.A.12.

9. Agreement Waiver and RAD Rehab Assistance Payments. For public housing conversions to PBV there will be no Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the AHAP, including regulations under 24 CFR part 983 subpart D are waived. Instead, the PHA and Project Owner typically will enter into a HAP Contract before construction begins. During the period of Work identified in the RCC, standard HAP Contract funding procedures will be used for occupied units. Units covered under the HAP Contract that are not occupied at any point during the period of Work identified in the RCC may be eligible, subject to the conditions below, for Rehab Assistance Payments equal to the Public Housing Operating Fund and the Capital Fund amounts that formed the basis for the calculation of initial contract rents (see Attachment 1C). During the period of rehabilitation or construction as identified in the RCC, the maximum number of units for which a Project Owner can receive RAD Rehab Assistance Payments is limited to the number of units eligible for Operating Fund or Capital Fund subsidy prior to conversion. As a result, some units in the Covered Project may not be eligible for Rehab Assistance Payments.

The Project Owner will no longer be eligible to receive RAD Rehab Assistance Payments upon the earlier of completion of the Work or expiration of the time period identified in the RCC for completion of all Work, which date is specified in the HAP contract. After such date, all units under the HAP Contract will be eligible for payment only for occupied units or for vacancy payments, as applicable. MTW agencies may not alter this requirement.

10. HQS Inspections. Under current regulations at 24 CFR § 983.103(b) a unit covered under a HAP Contract must be inspected and must meet HQS before assistance can be paid on behalf of a household, unless the PHA is using HOTMA non-life threatening and alternative inspection provisions.³⁵ In addition, section 8(o)(8)(A) of the Act provides that HAP Contract units must be inspected to ensure compliance with HQS prior to payment of any assistance on behalf of a family. When Work is occurring under RAD, HUD requires that all units meet HQS no later than the date of

completion of the Work as indicated in the RCC. Consequently, HUD is waiving and establishing an alternative requirement to 24 CFR § 983.103(b) and section 8(o)(8)(A) of the Act in such cases.

³⁵ See Notice PIH-2017-20 for guidance on HOTMA non-life threatening and alternative inspection provisions.

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11. Floating Units. Upon the request of the owner to the Voucher Agency that will administer the Covered Project, HUD will permit PBV assistance to float among units within the project having the same bedroom size. A unit to which assistance is floated must be comparable in condition to the unit it is replacing (i.e., the unit must be of the same quality and amenities as the unit it is replacing). Assistance may float from a required UFAS accessible unit only to another UFAS accessible unit that has the same bedroom size and accessibility features. If assistance floats to a UFAS accessible unit as a reasonable accommodation for a household that had not previously been in a UFAS unit, the assistance may float back to a non-UFAS unit when there is no longer need for the reasonable accommodation provided the required number of UFAS units is maintained. Units that float are not specifically designated under the HAP Contract. Therefore, the requirements in 24 CFR § 983.203(c) that the HAP Contract provide “the location of each contract unit” and “the area of each contract unit” are waived. Instead, the HAP Contract must specify the number and type of units in the property that are designated as RAD units, including any excepted units. From the time of the initial execution of the PBV RAD HAP Contract, the property must maintain the same number and type of UFAS accessible units. Floating units are subject to all of the requirements in this Notice and the PBV regulations, including physical inspections, rent adjustments, and income-mixing requirements. The alternative requirements with respect to floating units do not apply to non-RAD PBV units.

C. PBV Resident Rights and Participation. 1. No Rescreening of Tenants upon Conversion. Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.³⁶ Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, Section 8(o)(4) of the 1937 Act and 24 CFR § 982.201, concerning eligibility and targeting of

³⁶ These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

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2. Right to Return. See Section 1.4.A.5.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident’s right to return. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

3. Phase-in of Tenant Rent Increases. If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBV program (the tenant’s TTP) would increase the tenant’s TTP by more than the greater of 10 percent or \$25, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of “total tenant payment” (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years or a combination depending on circumstances and must communicate such policy in writing to affected residents. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

The method described below explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period established. For purposes of this section “Calculated PBV TTP” refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the “most recently paid TTP” refers to the TTP recorded on line 9j of the family’s most recent HUD Form 50058. If a family in a project converting from Public Housing to PBV was paying a flat rent immediately prior to conversion, the PHA should use the flat rent amount to calculate the phase-in amount for Year 1 (the first recertification following conversion), as illustrated below.

Three Year Phase-in:

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- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to

Year 3 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP • Year 3: Year 3 AR and all subsequent recertifications – Full Calculated PBV TTP 37

Five Year Phase in: • Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP • Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and the Calculated PBV TTP • Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and the Calculated PBV TTP • Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP • Year 5 AR and all subsequent recertifications – Full Calculated PBV TTP

Please Note: In either the three year phase-in or the five-year phase-in, once the Calculated PBV TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward. MTW agencies must also implement a three or five-year phase-in for impacted residents, but may alter the terms above as long as it establishes a written policy setting forth the alternative terms. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

4. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs. Public Housing residents that are currently FSS participants will continue to participate in the PHA's FSS program.

37 For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TTP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

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The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD. At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the subsequent Appropriation Acts), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

However, PHAs should note that until provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act are implemented, there are certain FSS requirements (e.g., escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and PHAs must follow such requirements accordingly. All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR part 984 (current, or as amended), the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100.³⁸ Further, upon conversion to PBV, if the PHA no longer has a public housing program, funds already escrowed for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.³⁹

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih201608.pdf>.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants, nor will its residents be eligible to be served by future ROSS-SC grants,

³⁸ The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants. ³⁹ Where the PHA maintains a public housing program, any forfeited funds that had been escrowed prior to conversion would revert to the PHA's Operating Reserves.

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5. Resident Participation and Funding. In accordance with Attachment 1B, residents of Covered Projects with assistance converted to PBV will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. To facilitate the uniform treatment of residents and units at a

Covered Project, any nonRAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

6. Resident Procedural Rights. The following items must be incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the required tenancy addendum (HUD Form 52530-c), as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.

a. Termination Notification. HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD and to non-RAD PBV units located at the Covered Project. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be : i. A reasonable period of time, but not to exceed 30 days: 1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or 2. In the event of any drug-related or violent criminal activity or any felony conviction; ii. Not less than 14 days in the case of nonpayment of rent; and iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

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b. Grievance Process. Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act.

For the termination of assistance and several other PHA determinations, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that: i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),⁴⁰ an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status. 1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i). 2. For any additional hearings required under RAD, the Project Owner will perform the hearing. ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator. iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi). iv. The Project Owner provides opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

40 § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.

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To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

7. Earned Income Disregard (EID). Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in 24 CFR § 5.617(b) limiting EID to disabled persons is waived. The waiver, and resulting alternative requirement, apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants that move into the property following conversion or tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion due to loss of employment) is covered by this waiver. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

8. Jobs Plus. Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target projects(s) under RAD will be able to finish out their Jobs Plus period of performance unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project. If the program is continued, the Project Owner must agree to continue to implement the program according to HUD's program requirements. Jobs Plus target public housing projects must enroll public housing residents into the Jobs Plus rent incentive, JPEID, prior to conversion. Any resident of the Covered Project that had not enrolled prior to conversion is not eligible to enroll in JPEID but may utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the Covered Project may voluntarily utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion.

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9. When Total Tenant Payment Exceeds Gross Rent. Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.⁴¹ In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. The PHA is required to process these individuals through the Form 50058 submodule in PIC. To facilitate the uniform treatment of residents and units at a Covered Project, any nonRAD PBV units located in the same Covered Project shall be subject to the terms of this provision. Unless a waiver is requested and approved as described below, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and require a subsidy payment at admission to the program, which means their TTP may not equal or exceed the gross rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an

⁴¹ For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

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alternative requirement that the PHA must reinstate the unit after the family has left the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where "floating units have been permitted, Section 1.6.B.10 of the Notice.

A PHA may request a waiver from HUD for the Covered Project in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not made a housing assistance payment for a family in 180 days.

For a Covered Project that consists of 100 percent RAD PBV units, the PHA must demonstrate that a waiver is necessary in order to avoid an undue concentration of poverty at the Covered Project. A PHA may evidence this by providing data showing, for example: • how eligible income-certified applicants on the waiting list must be passed over because their incomes result in zero HAP at admission causing a higher concentration of poverty at the covered project; or • how the income of newly admitted families is causing a markedly higher concentration of poverty than the PHA's non-RAD PBV projects.

The resulting impact on the property must be compared with the concentration of poverty at non-RAD PBV projects in the PHA's jurisdiction. If there are no non-RAD PBV projects in the PHA's jurisdiction, the PHA may alternatively demonstrate that the median income of families that could be admitted to the Covered Project is significantly lower than the median income of new admissions from the waiting list to the PHA's HCV program since the time of the RAD conversion.

For any other Covered Project, the PHA must demonstrate that the property contains specific units (e.g., units suitable for large families or accessible units) for which there are insufficient alternative housing opportunities.

If the waiver is approved, the new admission[s] families covered under the waiver are participants under the program and all of the family obligations and protections under RAD and PBV apply to the family, and the unit is subject to all program requirements. Such waiver requests should be submitted to the PIH Field Office in accordance with Notice PIH 2018-16.

10. Under-Occupied Unit. If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate

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D. PBV: Other Miscellaneous Provisions 1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration. PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work. Please see Appendix IV for reporting units in Form HUD-50058.

2. Ongoing PHA Board Review of Operating Budget. The Owner must submit to the administering PHA's Board the operating budget for the Covered Project annually. The PHA's Board must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.⁴²

3. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3). These sections have been moved to 1.4.A.13 and 1.4.A.14.

4. Establishment of Waiting List. 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV programwide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:

a. Transferring an existing site-based waiting list to a new site-based waiting list.

⁴² For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.

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b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list. c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD. d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing communitywide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other

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When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the PHA's Emergency Transfer Plan. This includes allowing for easier moves between assisted properties.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the Covered Project in accordance with 24 CFR § 983.251(c). To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

5. Mandatory Insurance Coverage. The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent

insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.

6. Future Refinancing. Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC but HUD review of liens must be performed prior to execution.

7. Administrative Fees for Public Housing Conversions During the Year of Conversion. For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the “year of conversion”), RAD PBV projects will be funded

43 For more information on serving persons with LEP, please see HUD’s Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

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H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration REV-4 – Final Implementation 72 with public housing funds. For example, if the project’s assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

PHAs operating an HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to “section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998” and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

8. Choice-Mobility. One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenantbased rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the PHA's HCV program becomes PBV assistance, it is possible for most or all of a PHA's turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenantbased vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing the following alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory

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H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration REV-4 – Final Implementation 73 turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD . MTW agencies may not alter this requirement.

9. Reserve for Replacement. The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.

10. Initial Certifications and Tenant Rent Calculations. The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV sitespecific utility allowance, if applicable) to determine the PBV HAP and tenant rent. This means that the family pays the same tenant rent as the family was paying under the public housing program until the earlier of first regular or interim reexamination following conversion, at which point the normally applicable PBV calculation for the tenant rent becomes effective. (Under the PBV program, the monthly HAP is the rent to owner minus the tenant rent, and the tenant rent is the family TTP minus the utility

allowance.) To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same property as the Covered Project shall be subject to the terms of this provision. To effectuate this provision, HUD is waiving 24 CFR 5.601 and 983.3(c)(6)(iii).

(Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.6.C & Section 1.6.D, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan) If converting to PBRA: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.7.B & Section 1.7.C, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan)

-OR-

1.7 Special Provisions Affecting Conversions to PBRAs

H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration REV-4 – Final Implementation 75 one or more transfer of assistance sites in lieu of the project site subject to the expiring contract. Consequently, to the extent that section 524 of MAHRAA and 24 CFR part 402 are in effect upon contract expiration, the various provisions stating or requiring that any renewal of an expiring contract for project-based assistance under Section 8 shall be “at the request of the owner” will not apply.

3. Ownership or Control. This section has been moved to Section 1.4.A.11.

4. RAD Use Agreement. This section has been moved to Section 1.4.A.13

5. Initial Contract Rent Setting. No additional or incremental funding is associated with this Demonstration. Consequently, HUD is specifying alternative requirements for section 8(c)(1) of the Act, which governs rent setting for project-based Section 8 units, and for section 8(c)(5) of the Act or 24 CFR § 880.503(b), which govern the “project account.” HUD has calculated initial contract rents for every public housing project based on each project’s subsidy under the public housing program. All RAD applications, including applications for Portfolio Awards, will have initial contract rents based on their “RAD rent base year,” described in Attachment 1C. PHAs have additional discretion in establishing initial contract rents using the following flexibility:

a. MTW Fungibility. MTW agencies may use their MTW funds to set the initial contract rents higher than the normally applicable contract rent cap that is based on the project’s public housing subsidy. In addition to the rent cap described below, contract rents cannot exceed comparable market rent, as determined by a Rent Comparability Study. Any use of MTW funding flexibilities in setting initial contract rents shall be subject to subsidy layering review and MTW continued service requirements, as calculated using the MTW Baseline Methodology described in Notice PIH 2013-02, or successor Notice. If an MTW agency converts a project to PBRA and uses this flexibility to increase their initial contract rents, HUD will reduce the agency’s public housing subsidy by the additional amount (in addition to any funding modifications that would occur as a result of the conversion absent the rent increase) required to fund the PBRA HAP (see Attachment 1C). HUD will limit the number of projects

an MTW agency may convert to PBRA if the PHA does not have sufficient public housing subsidy to convert into PBRA assistance.

b. Rent Bundling. PHAs may adjust subsidy (and initial contract rents) across multiple projects as long as the PHA does not exceed the aggregate

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subsidy for all of the projects the PHA has submitted for conversion under RAD. For example, assume that a PHA is considering bundling two identical projects, both consisting of 100 units. In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The PHA could bundle the two projects such that the initial contract rents for both projects will be \$550. This use, which HUD refers to as “bundled” rents, can occur under the following scenarios:

i. When a PHA is converting two or more properties within its public housing portfolio. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract; and ii. When PHAs have formed a Partnership in accordance with Section 1.5.M and are bundling rents between two or more converting projects. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract;

Please note that per Section 1.13.B.5, regardless of the initial contract rents for the RAD HAP Contract, including as modified by this provision, in the year of conversion the Covered Project will only be assisted by the Operating and Capital Funds obligated to the PHA for that project.

c. Future Replacement Housing Factor (RHF) or Demolition Disposition Transition Funding (DDTF).⁴⁵ PHAs that are scheduled to receive ongoing RHF or DDTF funding (funds that have not been awarded and, with HUD permission, funds that have been awarded but not yet disbursed) may choose to forgo any ongoing RHF or DDTF grants for the purpose of offsetting an increase to the RAD rent. See Attachment 1C for the calculation of how RHF or DDTF funding may offset increased RAD rent.

d. Tenant Paid Utility Savings. When conversion will result in the reduction of one or more utility components (e.g., gas, water & sewer, electric) used to establish the Utility Allowance, HUD will permit the

⁴⁵ RHF and DDTF are provided to PHAs following the demolition or disposition of public housing projects pursuant to Section 18 of the Act. PHAs will not receive RHF or DDTF as a result of and following the conversion of projects converting under RAD.

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RAD contract rent to be increased by a portion of the utility savings. See Attachment 1C for additional detail. The Utility Allowance shall be recalculated based on actual consumption within a reasonable period following completion of the work.

e. New Construction or Substantial Rehab. For any transaction that is proposed in its Financing Plan to undertake new construction or substantial rehabilitation in a designated Opportunity Zone, HUD may provide up to a \$100 per unit per month (PUM) increase to the RAD rents, subject to the availability of funds and such conditions as HUD may impose. For purposes of this subparagraph, new construction or substantial rehabilitation is defined as hard construction costs, including general requirements, overhead and profit, and payment and performance bonds, in excess of 60% of the Housing Construction Costs as published by HUD for a given market area. Funds for this purpose shall be allocated on a first-come, first served basis, subject to the availability of funds, based on the time of the request (communicated through the submission of a complete and acceptable Financing Plan), where the PHA demonstrates it is necessary for the viability of the transaction.⁴⁶

Notwithstanding HUD's calculation or the above-mentioned flexibilities, initial contract rents will be capped at 120 percent of the Section 8 FMR, adjusted by the number of bedrooms, and after subtracting any applicable utility allowance. However, when HUD's calculation of contract rents exceeds 120 percent of the FMR but where the PHA believes that such rents are below the comparable market rent, the PHA may request an exception under which the project may receive rents in excess of 120 percent of the FMR but not in excess of the lower of comparable market rents or 150 percent of FMR. HUD will grant such a request only when HUD determines that a Rent Comparability Study (RCS), which the PHA must procure and pay for, establishes that rents are below comparable market rents.⁴⁷ Any such determination will be made by HUD in its sole and absolute discretion. Where initial contract rents are at or below 120 percent of the FMR, no RCS is required.

⁴⁶ HUD will aggregate for this purpose a limited amount of funds associated with units excluded from conversions through a de minimis reduction pursuant to Section 1.4.A.4 ("Substantial Conversion of Assistance"). ⁴⁷ The Rent Comparability Study must be prepared consistent with Chapter Nine of HUD's Section 8 Renewal Guide, including any changes to Chapter Nine that HUD publishes while the HAP Contract is in effect. See http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8.

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6. Method of Adjusting Contract Rents. Contract rents will be adjusted only by HUD's OCAF at each Anniversary of the HAP Contract, subject to (a) the availability of appropriations for each year of the contract term, and (b) the Maximum Rent, as defined below.⁴⁸

The Maximum Rent is the higher of 140% of FMR (less utility allowances) or the market rents, as demonstrated by an RCS procured and paid for by the Project Owner. Where an RCS has been used

to establish initial rents or to justify an OCAF adjusted rent that exceeds 140% of the FMR, the RCS will remain valid for five years, the Maximum Rent will not apply for the next four annual rent adjustments, and rents will be adjusted only by the OCAF during such period.

7. Distributions. Regardless of type of financing, Covered Projects will not be subject to any limitation on distributions of Surplus Cash, contingent on the availability of Surplus Cash as determined by year-end audited or certified financial statements. To implement this provision, HUD will not apply 24 CFR § 880.205, which, among other provisions, establishes certain limitations on distributions for profit-motivated owners and authorizes HUD to require the owner to establish a residual receipts account. Distributions are not considered program or project funds.

8. RAD Rehab Assistance Payments. HUD and the Project Owner typically will enter into a HAP Contract before construction begins. During the period of Work identified in the RCC, standard HAP Contract administration procedures will be used for occupied units. Except where the Section 8 Pass-Through⁴⁹ is used, units covered under the HAP Contract that are not occupied at any point during the period of Work identified in the RCC may be eligible, subject to the conditions below, for Rehab Assistance Payments equal to the Public Housing Operating Fund and the Capital Fund amounts that formed the basis for the calculation of initial contract rents (see Attachment 1C). During the period of rehabilitation or construction as identified in the RCC, the maximum number of units for which a Project Owner can receive RAD Rehab Assistance Payments is limited to the number of units eligible for Operating Fund or Capital Fund subsidy prior to conversion. As a result, some units in the

48 OCAFs are calculated and published each year by HUD in the Federal Register and are applied to the contract rent in order to calculate the contract rent for the project in the following fiscal year. For public housing conversions, the OCAF excludes the portion of the contract rent that is committed to debt service payments .

49 As fully described in Handbook 4350.1, Chapter 38, Paragraph 38-32, under the Section 8 Pass Through Owners with residents under a project-based Section 8 HAP Contract whose unit was rendered uninhabitable may temporarily lease a unit in another building, which is habitable, under UPCS. The Owner can sign a temporary lease on behalf of the displaced Section 8 resident (i.e., a master lease) and begin to voucher for the contract rent for that temporary unit.

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Covered Project may not be eligible for Rehab Assistance Payments. As necessary to implement this provision, HUD is suspending the applicability of additional provisions in 24 CFR § 880.504(a) until all contract units are made available for occupancy and waiving the applicability of section 8(c)(4) of the Act.

The Project Owner will no longer be eligible to receive RAD Rehab Assistance Payments upon the earlier of completion of the Work or expiration of the time period identified in the RCC for completion of all Work, which date is specified in the HAP contract. After such date, all units under

the HAP Contract will be eligible for payment only for occupied units or for vacancy payments, as applicable.

9. Future Statutory or Administrative Changes. Consistent with PBRA HAP Contracts entered into under MAHRAA, any changes in HUD requirements, except to the extent required by statute, that are inconsistent with the PBRA HAP Contract entered into through RAD, shall not be applicable. Further, for any statutory change during the term of the contract affecting contract rents that HUD determines will threaten the physical viability of the property, the Owner may terminate the contract upon notification to HUD. Notwithstanding such termination, the project shall remain subject to the RAD Use Agreement encumbering the property on which the project is located.⁵⁰

10. Floating Units. Upon the request of the Project Owner of a Covered Project that is partially-assisted (i.e., fewer than 100% of the units are covered by the HAP Contract), HUD will permit the Section 8 assistance to float between units within the project that have the same bedroom size and the same contract rent; from the time of the initial execution of the HAP Contract, the property must maintain the same number and type of RAD units. As a condition for granting such request, HUD requires that the unassisted units be inspected with the same frequency as the assisted units are required to be inspected under 24 CFR part 200, subpart P. Assistance may float from a required UFAS unit only to another UFAS unit that has the same bedroom size and accessibility features. If assistance floats to a UFAS unit as a reasonable accommodation for a household that had not previously been in a UFAS unit, the assistance may float back to a non-Section 504 unit when there is no longer need for the reasonable accommodation provided the required number of UFAS units is maintained.

⁵⁰ Until HUD revises the currently approved PBRA HAP Contract for RAD, PHAs may request amendments to the HAP Contract in accordance with this provision.

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11. UPCS (REAC) Inspections. Under current regulations at 24 CFR part 5, subpart G, a unit covered under a PBRA HAP Contract must meet the UPCS before assistance can be paid on behalf of a household. Under RAD, once all units under the HAP Contract become occupied, HUD will order a REAC inspection of the property to ensure conditions meet the UPCS. HUD is hereby waiving and establishing this alternative requirement to 24 CFR part 5, subpart G.

B. PBRA Resident Rights and Participation. 1. No Rescreening of Tenants upon Conversion. Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.⁵¹ Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBRA requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent

phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, the first clause of section 8(c)(4) of the Act and 24 CFR § 880.603(b), concerning determination of eligibility and selection of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Further, so as to facilitate the right to return to the assisted property, this provision shall apply to current public housing residents of the Converting Project that will reside in non-RAD PBV units or non-RAD PBRA units placed in a project that contain RAD PBV units or RAD PBRA units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR § 983 for non-RAD PBV units and the PBRA requirements governing the applicable contract for non-RAD PBRA units.⁵²

2. Right to Return. See section 1.4.A.5.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return.

⁵¹ These protections (as well as all protections in this Notice for current households) apply when a household is relocated to facilitate repairs following conversion and subsequently returns to the Covered Project, even if they are considered a "new admission" upon return.

⁵² For non-RAD PBV households, applicable program requirements includes the requirement that any admission to the project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the gross rent for the unit at that time.

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3. Phase-in of Tenant Rent Increases. If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBRA program (the tenant's TTP) would increase the tenant's TTP by more than the greater of 10 percent or \$25, the rent increase will be phased in over 3 or 5 years. Eligibility for the phase-in is to be determined at the Initial Certification which occurs at the time the household is converted to PBRA. A phase-in must not be applied after the household's Initial Certification. To implement the phase-in, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 880.201 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years, or a combination depending on circumstances and must communicate such policy in writing to affected residents. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

The method described below explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period established. For purposes of this section "Calculated Multifamily TTP" refers to the TTP calculated in accordance with regulations at 24 CFR § 5.628 (not capped at Gross Rent) and the "most recently paid TTP" refers to the TTP recorded on the family's most recent HUD Form 50059. If a family in a project converting from Public Housing to PBRA was

paying a flat rent immediately prior to conversion, the PHA should use the flat rent amount to calculate the phase-in amount for Year 1, as illustrated below.

Three Year Phase-in: • Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated Multifamily TTP • Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) in prior to Year 3 AR – 50% of difference between most recently paid TTP and Calculated Multifamily TTP • Year 3: Year 3 AR and all subsequent recertifications – Year 3 AR and any IR in Year 3: Full Calculated Multifamily TTP⁵³

⁵³ For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TPP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

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Five Year Phase-in • Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated Multifamily TTP • Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and Calculated Multifamily TTP • Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and Calculated Multifamily TTP • Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and Calculated Multifamily TTP • Year 5 AR and all subsequent recertifications – Full Calculated Multifamily TTP

Please Note: In either the three year phase-in or the five-year phase-in, once Calculated Multifamily TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full Calculated Multifamily TTP from that point forward

4. Family Self-Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs. Public Housing residents that are currently FSS participants will continue to participate in the PHA's FSS program once their housing is converted under RAD. Through waiver in this Notice, FSS grant funds may be used to continue to serve such FSS participants. All Project Owners will be required to administer the FSS program or partner with another agency to administer the FSS program in accordance with the requirements of 24 CFR part 984, the participants' contracts of participation, and current and future guidance published by HUD for all FSS participants enrolled in the FSS program prior to RAD conversion. All Project Owners will be required to provide both

service coordination and payments to escrow until the end of the Contract of Participation for each resident. To ensure that HAP payments are processed correctly, and until TRACS is modified, the Project Owner must notify MF_FSS@hud.gov that there are current FSS participants residing in the Covered Project and adhere to the escrow and reporting requirements in Notice H 2016-08. The Project Owner may enter into a Cooperative Agreement with the PHA (the grantee), allowing the PHA to continue to provide service coordination to RAD-affected PBRA participants until all have completed their Contracts according to 24 CFR § 984.303. The Project Owner must assume responsibility for the administrative duties associated with FSS such as calculating and crediting escrow and reporting. Ultimately, the new Project Owner is responsible for serving the RAD-affected FSS participants until the end of their CoPs.

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The owner is not required to enroll new participants, but may choose to run its own voluntary FSS program in accordance with Notice H 2016-08.

At the completion of the FSS grant, grantees should follow the normal closeout procedures outlined in the grant agreement. Future FSS NOFAs will identify eligible FSS participants. Until HUD implements provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act that expand eligibility for FSS to PBRA properties, only a PHA that continues to run an FSS program that serves public housing and/or HCV/PBV FSS participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve public housing, HCV and/or RAD-affected PBRA FSS participants. However, if the PHA no longer has a public housing or HCV program, the PHA is not eligible to apply for FSS funding.

Upon conversion, if the PHA has closed out its public housing program in accordance with Notice PIH 2019-13, funds escrowed under the public housing program for FSS participants shall be transferred into the PBRA escrow account and be considered PBRA funds, thus reverting to PBRA if forfeited by the FSS participant.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants nor will its residents be eligible to be served by future ROSS-SC grants, as ROSS-SC, by statute, can serve only public housing residents. At the completion of the ROSS-SC grant, grantees should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be non-profits or local Resident Associations and this consequence of a RAD conversion may impact those entities.

5. Resident Participation and Funding. Residents of Covered Projects with assistance converted to PBRA will have the right to establish and operate a resident organization in accordance with 24 CFR part 245 (Tenant Participation in Multifamily Housing Projects). In addition, in accordance with Attachment 1B, residents will be eligible for resident participation funding.

6. Resident Procedural Rights. The information provided below must be included as part of the House Rules for the associated project and the House Rules must be submitted to HUD for review prior to Closing. See Attachment 1E for a sample Addendum to the House Rules.

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a. Termination Notification. HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects converting assistance under RAD, that supplement notification requirements in regulations at 24 CFR § 880.607 and the Multifamily HUD Model Lease. i. Termination of Tenancy and Assistance. The termination procedure for RAD conversions to PBRA will additionally require that Project Owners provide adequate written notice of termination of the lease which shall be: 1. A reasonable period of time, but not to exceed 30 days; 0 If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or 0 In the event of any drug-related or violent criminal activity or any felony conviction; 2. Not less than 14 days in the case of nonpayment of rent; and 3. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply. ii. Termination of Assistance. In all other cases, the requirements at 24 CFR § 880.603, the Multifamily HUD Model Lease, and any other HUD multifamily administrative guidance shall apply.

b. Grievance Process. Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act. In addition to program rules that require that tenants are given notice of covered actions under 24 CFR part 245 (including increases in rent, conversions of a project from project-paid utilities to tenant-paid utilities, or a reduction in tenant paid utility allowances), HUD requires that: i. Residents be provided with notice of the specific grounds of the Project Owner's proposed adverse action, as well as their right to an informal hearing with the Project Owner; ii. Residents have an opportunity for an informal hearing with an impartial member of the Project Owner's staff within a reasonable period of time; iii. Residents have the opportunity to be represented by another person of their choice, to ask questions of witnesses, have

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The Project Owner shall be bound by decisions from these hearings, except if (x) the hearing concerns a matter that exceeds the authority of the impartial party conducting the hearing, or (y) the decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, State,

or local law. If the Project Owner determines that it is not bound by a hearing decision, the Project Owner must promptly notify the resident of this determination, and of the reasons for the determination.

c. Family Right to Move. Pursuant to Section 1.7.C.5 and unless the Covered Project received a specific good cause exemption to such provision, families have a choice-mobility right which must be stated in the House Rules as shown in sample in Attachment 1E.

7. Earned Income Disregard (EID). Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID exclusion after conversion, in accordance with regulations at 24 CFR § 960.255. After conversion, no other tenants will be eligible to receive the EID. If a tenant receiving the EID exclusion undergoes a break in employment, ceases to use the EID exclusion, or the EID exclusion expires in accordance with 24 CFR § 960.255, the tenant will no longer receive the EID exclusion and the Owner will no longer be subject to the provisions of 24 CFR § 960.255. Furthermore, tenants whose EID ceases or expires after conversion shall not be subject to the rent phase-in provision, as described in Section 1.7.B.3; instead, the rent will automatically be adjusted to the appropriate rent level based upon tenant income at that time.

8. Jobs Plus. Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target project(s) under RAD will be able to finish out their Jobs Plus grant unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the

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9. When Total Tenant Payment Exceeds Gross Rent. Under the PBRA program, assisted families typically pay 30% of adjusted gross income toward rent and utilities, referred to as TTP. Under normal PBRA rules, a Project Owner must process a termination of assistance pursuant to section 8-5 C. of Housing Handbook 4350.3, REV-1 when the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent). In addition, section 8-6 A.1 provides that, when terminating a tenant's assistance, the owner is to increase the tenant rent to the contract rent (assuming that the tenant does not receive the benefit of any other type of subsidy).

For residents living in the Converting Project on the date of conversion and all new admissions to the Covered Project thereafter, when TTP equals or exceeds the contract rent plus any utility allowance, the Project Owner must charge a tenant rent equal to the lesser of (a) TTP (which is not capped at gross rent), less the utility allowance in the contract, or (b) any applicable maximum rent allowable under LIHTC regulations.⁵⁴ To this end, HUD is waiving sections 8-5 C. and 8-6 A. 1. of Housing Handbook 4350.3, REV-1. In such cases, the tenant will still be considered a Section 8 tenant and will still have the rights and be subject to the requirements of Section 8 tenants. Tenants will retain all of the rights under the Model Lease, including the right to occupy the unit, as well as those provided through this Notice, and tenants will still be subject to the requirements for Section 8 tenants, including the requirements concerning reexamination of family income and composition found in 24 CFR §§ 5.657 and 880.603(c). When TTP equals or exceeds Gross Rent, the excess rent collected by the owner is considered project funds and must be used for project purposes. Assistance may subsequently be reinstated if the Tenant becomes eligible for assistance. In the event that the tenant moves out, the Project Owner must

⁵⁴ For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities. Accordingly, the Project Owner must charge this resident \$550, i.e., \$600 TTP, minus \$50 Utility Allowance.

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The Project Owner is not required to process these individuals through Multifamily Housing's Tenant Rental Assistance Certification System (TRACS) but may be required to do so in the future when a future revision of the TRACS can accept such certifications. All normal actions for the contract rent shall continue for these units, including application of the OCAF adjustment to the contract rent indicated in the HAP Contract—since the OCAF adjusted rent will still be in effect whenever the unit is occupied by a family eligible for rental assistance.

10. Under-Occupied Units. If at the time of conversion, an eligible family assisted under the HAP Contract is occupying a unit that is larger than appropriate because of the family's composition, the family may remain in the unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized within a reasonable period of time. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, HUD is waiving the portion of 24 CFR § 880.605 that assumes the unit has become under-occupied as the result of a change in family size.

C. PBRA: Other Miscellaneous Provisions. 1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration. PHAs and the Project Owner must cooperate with any

reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work.

2. Davis-Bacon prevailing wages and Section 3 of the Housing and Urban Development Act of 1968 (Section 3). These sections have been moved to 1.4.A.13 and 1.4.A.14.

3. Establishment of Waiting List. The Project Owner can utilize a project-specific or community waiting list. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:

a. Transferring an existing site-based waiting list to a new site-based waiting list. b. Transferring an existing site-based waiting list to a PBRA program-wide waiting list.

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c. Transferring an existing community-wide public housing waiting list to a PBRA program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD. d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

To the extent the wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing communitywide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).55

When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the PHA's Emergency Transfer Plan. This allows for easier moves

55 For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

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To implement this provision, HUD is specifying alternative requirements for 24 CFR § 880.603 regarding selection and admission of assisted tenants. However, after the initial waiting list has been established, the Project Owner shall administer its waiting list for the Covered Project in accordance with 24 CFR § 880.603.

A Project Owner must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

4. Mandatory Insurance Coverage. The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project.

5. Choice-Mobility. HUD seeks to provide all residents of Covered Projects with viable Choice-Mobility options. Unless provided an exemption as described below, PHAs that are applying to convert the assistance of a project to PBRA are required to provide a Choice-Mobility option to residents of Covered Projects in accordance with the following:⁵⁶

a. Resident Eligibility. Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of: (a) 24 months from date of effective date of the HAP or (b) 24 months after the move-in date. b. Voucher Inventory Turnover Cap. Recognizing the limitation on the availability of turnover vouchers from year to year, a voucher agency would not be required, in any year, to provide more than one-third of its turnover vouchers to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. c. Project Turnover Cap. Also recognizing the limited availability of turnover vouchers and the importance of managing turnover in the best interests of the property, in any year, a Project Owner and voucher agency

56 The Choice-Mobility requirements that apply to covered PBRA projects differ from the requirements that apply to covered PBV projects.

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The voucher agency must maintain a written agreement with the owner describing how the Choice-Mobility option will be administered in accordance with these requirements and the process by which households may request a voucher. For example, the written agreement must specify whether the owner will receive requests from families or refer families to the PHA.

HUD's goal is to have all residents in the Demonstration offered a Choice-Mobility option within a reasonable time after conversion. However, as HUD recognizes that not all voucher agencies will have vouchers sufficient to support this effort, HUD will take the following actions: • Provide voucher agencies that make such a commitment bonus points provided under the Section Eight Management Assessment Program (SEMAP) for deconcentration.⁵⁷ • Grant a good-cause exemption from the Choice-Mobility requirement for no more than 10 percent of units in the Demonstration. HUD will consider requests for good-cause exemptions only from the following types of PHAs: o Public housing-only agencies, defined as agencies that own units under a public housing ACC, but do not administer, directly or through an affiliate, a Housing Choice Voucher program with non special-purpose vouchers; or o Combined agencies that currently have more than one-third of their turnover vouchers set aside for veterans, as defined for the purpose of

57 The sponsoring agency must commit to the full term of the initial HAP Contract, must undergo a significant amendment to its Annual Plan (no later than 60 days after execution of the project's CHAP), and must comply with section 8(o)(6)(A) relating to selection preferences. In order to implement this incentive, HUD is waiving provisions under 24 CFR § 985.3(h) to provide donating agencies with bonus points under the SEMAP for deconcentration.

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6. Future Refinancing. Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent

with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC, but HUD review of liens must be performed prior to execution.

7. Submission of Year-End Financial Statements. Projects converting assistance to PBRA must comply with 24 CFR part 5, subpart H, as amended, revised, or modified by HUD.59

8. Classification of Converting Projects as Pre-1981 Act Projects under Section 16(c) of the United States Housing Act of 1937. For purposes of ensuring maximum flexibility in converting to PBRA, all projects converting to PBRA shall be treated as Pre-1981 Act Projects under Section 16(c) of the Act. Section 16(c)(1), which applies to pre-1981 Act projects, restricts occupancy by families that are other than very low-income to 25% of overall occupancy. Thus, Project Owners of projects converting to PBRA may admit applicants with incomes up to the low-income limit. HUD Headquarters tracks the 25% restriction on a nationwide basis. Project Owners of projects converting to PBRA do not need to request an exception to admit low-income families. In order to implement this provision, HUD is specifying alternative requirements for section 16(c)(2) of the Act and 24 CFR § 5.653(d)(2) to require Project Owners of projects converting to PBRA to adhere to the requirements of section 16(c)(1) of the Act and 24 CFR § 5.653(d)(1).

9. Owner-Adopted Preferences. Covered Projects are not permitted to establish or, where previously approved under public housing rules, maintain a designation (i.e., a set-aside of units) for elderly families or for disabled families; unlike the statute

58 A veteran is, for the purpose of HUD-VASH, a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable and is eligible for Veterans Administration health care.

59 This provision is included to clarify existing requirements for PHAs that own PBRA-assisted projects through Single Asset Entities. Such owners are considered reporting entities under 24 CFR § 5.801 (a)(3) and (a)(4).

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10. Initial Certifications and Tenant Rent Calculations. Owners are to use the resident's pre-existing public housing 50058 data and maintain the tenant rent and utility allowance until the resident's next annual or interim certification. To effectuate this provision, HUD is waiving 24 CFR 5.601.

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