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ADDENDUM #3
ISSUE DATE: Thursday, July 30, 2026

This Addendum shall become and form a part of:

Notice of Funding Availability (NOFA) 2023 Faircloth to RAD
Project Based Rental Assistance Subsidy Pilot Program

TO ALL VENDORS

This Addendum, including all articles and corrections listed below, shall become a part of the original Request for Proposals ("RFP") package and shall be taken into account in preparing your proposal response.

The above-numbered solicitation is amended as set forth below. Vendors must acknowledge receipt of this addendum by signing and completing the attached ***Addenda Acknowledgement Form***. The Addenda Acknowledgement Form must be submitted with the Firm's response to this RFP. *Failure to include the Form in the proposal response may subject your firm to disqualification.*

In order to ensure that all firms are given an equal opportunity to submit a competitive response, this addendum serves to communicate changes and provide clarifications concerning the **2023 NOFA Faircloth to RAD Rental Subsidy Program Application.**

Change #1- How to Submit your Application.

Update language to remove the 50-unit threshold on page #7.

C. In the event an applicant has multiple strategies and deal terms for a property or cluster of properties, ~~up to the designated 50-unit threshold~~ up to 3 applications detailing the alternative property strategy arrangements may be submitted for evaluation.

Change #2- RAD PBV Rents

Updated language to provide more flexibility on rental subsidy levels on page #10.

1.5

Applicants may request FTR subsidy for all or some of the units in the proposed development. If approved, constructed, and converted to RAD, the initial public housing subsidy associated with the development will be converted to a payment under a FTR HAP

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contract with AH. Applicants applying for FTR should assume 60% Area Median Income (AMI) rent levels (Atlanta-Sandy Springs-Roswell) for purposes of development budgets. **Determination of approved rents will be subject to HUD funding availability and the agency's budget authority**. Access this link for assistance in determining the latest 60% AMI gross rent levels https://ric.novoco.com/tenant/rentincome/calculator/z2.jsp. If the Owner/Developer plans to pay for the utilities, a gross rent will be paid. If the resident will be responsible for paying their utilities, a net rent will be paid, subtracting the utility allowance from the gross rent.

Assisted units may not be occupied until after RAD conversion. RAD conversion cannot occur until after DOFA, HUD approval of the assisted units as public housing units and the RAD transaction is complete. Subsidy payments for the assisted units under the FTR HAP Contract cannot occur until after the Certificate of Occupancy is obtained and tenant screening and income verification requirements are met.

Change #3 – Financial Feasibility

Updated language to provide more flexibility on rental subsidy levels.

Applicant must provide the following:

a. A 20-year *pro forma* illustrating proposed rents for FTR units
   i. The rents must not exceed the current 60% AMI rent levels per HUD. **Determination of approved rents will be subject to HUD funding availability and the agency's budget authority.**
   ii. Proof of funding sources (e.g. letters of interest or commitments) for all proposed funding sources

Change #4 – Faircloth-to-RAD Guide

Replaced FTR Guide with latest version (Dated November 2023)

HUD's latest Faircloth to RAD Guide attached.

Addenda to this NOFA will only be issued and posted on AH's website. Addenda **will not** be mailed to potential Respondents. It is the responsibility of the Respondent to monitor AH's website and Business Management Portal for any addenda issued.

Symrah Christopher
Senior Vice President, Contracts & Procurement

U.S Department of Housing and Urban Development

Office of Housing and

Office of Public and Indian Housing

Faircloth-to-RAD Guide



Pictured: Walton Harbor, a Faircloth-to-RAD development built by Gainesville Housing Authority in Georgia.

November 2023

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Introduction: Why Faircloth-to-RAD?

Our nation's severe shortage of affordable housing leaves far too many households paying more than 30% of their income to afford a place to call home. Every year, we lose affordable rental units to demolition, deterioration of aging properties, expiring affordability restrictions, and rent increases in local markets. HUD is committed to deploying all tools available to not only improve the quality of existing affordable housing, but also build new affordable homes.

To further this goal, HUD has developed an innovative new development method for Public Housing Authorities (PHAs) to leverage their existing Public Housing "Faircloth authority" to create new federally assisted housing by combining the mixed-finance development process with the Rental Assistance Demonstration (RAD). "Faircloth-to-RAD" development helps PHAs and their partners more easily finance the development of new deeply affordable units.

What is Faircloth-to-RAD?

The process by which PHAs develop additional Public Housing units up to their Faircloth Limit with conditional pre-approval to convert these units to a long-term Section 8 contract through RAD following completion of construction, rehabilitation, or acquisition under the Public Housing development process (described at 24 CFR Part 905, Subpart F).

Faircloth-to-RAD combines and streamlines the existing mixed-finance development process with a RAD transaction to enable PHAs to build new deeply affordable rental housing more easily.

What is Faircloth Authority?

Faircloth authority is a cap that Congress established in 1998 on the number of Public Housing units the Federal government would subsidize with operating and capital funding.

Section 9(g)(3) of the Housing Act of 1937 (known as the "Faircloth Amendment") states that HUD cannot fund the construction or operation of new Public Housing units with capital or operating funds if the construction of those units would result in a net increase in the number of units the PHA owned, assisted, or operated as of October 1st, 1999.

Today, many PHAs operate fewer units than they did in 1999. The difference between the number of Public Housing units a PHA currently operates and the 1999 limit is often referred to as a PHA's "Faircloth authority," and it represents the number of potential new units that could be built that would be eligible for new capital and operating funds.

How Many Faircloth-to-RAD units could I build?

To see your housing authority's available Faircloth authority, visit the webpage for the Office of Capital Improvements and download the Excel workbook titled "National List of Maximum Number of Units Eligible for Capital Funding and Operating Subsidy by PHA."

PHAs with questions on their calculated Faircloth authority may contact PIHOCI@hud.gov.

PHAs may also transfer their Faircloth authority as part of a PHA transfer or consolidation in accordance with Notice PIH 2014-24 which involves the transfer of all Public Housing assets and liabilities (in addition to the Faircloth limit).

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Nationwide, as of 2023, nearly 260,000 units could be built under existing Faircloth authority, provided the PHAs can finance the acquisition or initial construction. Faircloth-to-RAD helps PHAs address this financing need.

In a Faircloth-to-RAD development, PHAs develop Public Housing units using HUD's Public Housing mixed-finance program with pre-approval to convert the property to a long-term Section 8 contract via RAD following acquisition or rehabilitation/construction. With early-stage RAD conversion approval, lenders and investors can underwrite these projects with the certainty and familiarity of a Section 8 contract.

Overview of the Faircloth-to-RAD Development Concept



Faircloth-to-RAD merges the mixed-finance development process with a streamlined RAD conversion process to eliminate duplicative steps and to maximize predictability.

Who should use this guide?

This guide is written for PHAs who have interest in the following:

- Using the Office of Public Housing Investments (OPHI) mixed-finance program—administered by the Office of Urban Revitalization (OUR)—to add new Public Housing units from their available Faircloth authority; **and**
- Converting the assistance from Public Housing to Section 8 through the Rental Assistance Demonstration (RAD) program once the new units have been entered into the PIH Information Center (PIC).

In this guide, you will find the following information and resources to better understand the Faircloth-to-RAD process and whether it is right for your community:

- The amount of "Faircloth authority" units available to each PHA.
- Guidance on how to implement Faircloth-to-RAD developments, including the sequence of RAD and mixed-finance development processes.
- A description of the specific items HUD's Office of Recapitalization (Recap) will need to review before construction/acquisition to ensure the project will satisfy RAD requirements when construction/acquisition is complete.
- Links to more detailed information on both the mixed-finance and RAD programs.
- The template that HUD will use to provide the anticipated RAD rents for new projects.
- The template that HUD will use to provide a pre-construction conditional approval of the RAD conversion simultaneous with the mixed-finance development approval.

With these materials, any PHA with available Faircloth authority can devise plans to create new deeply affordable housing.

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Understanding Faircloth-to-RAD Developments

What is Mixed Finance Development?

As stated above, Faircloth-to-RAD developments combine mixed finance development with a RAD conversion. It is therefore important to understand what constitutes mixed finance development. Mixed finance development occurs when the PHA is developing or modernizing Public Housing units and the units are owned in whole or in part by an entity other than the PHA**.** Where the construction, acquisition, or rehab of a project is done in partnership with a PHA instrumentality or PHA affiliate, the proposed ownership structure automatically designates the project as a mixed-finance development. If it is anticipated the project will convert under RAD after the new construction, acquisition, or rehab, then it is considered a Faircloth-to-RAD development and falls under the processes described in this guide. The use of Low-Income Housing Tax Credits (LIHTC), while common, is not a requirement of the mixed-finance development or Faircloth-to-RAD process.

What constitutes a mixed-finance development?

Mixed-finance development refers to the development (through new construction or acquisition, with or without rehabilitation) or modernization of Public Housing, where the Public Housing units are owned in whole or in part by an entity other than a PHA. If the Public Housing units being developed are 100 percent owned by the PHA, the project is not a mixed-finance project and will not be subject to mixed-finance development requirements.

When using Faircloth authority, a PHA can create an ownership entity, such as a single asset entity, for the purpose developing and owning a mixed-finance development.

See 24 CFR § 905.604 and HUD.gov/mixedfinance for more detail on mixed-finance development.

Throughout this guide, HUD uses the phrase “construction” to refer to new construction or acquisition transactions with rehabilitation work where the units are developed under the mixed-finance program. Mixed-finance developments without rehabilitation are not covered in this guide.

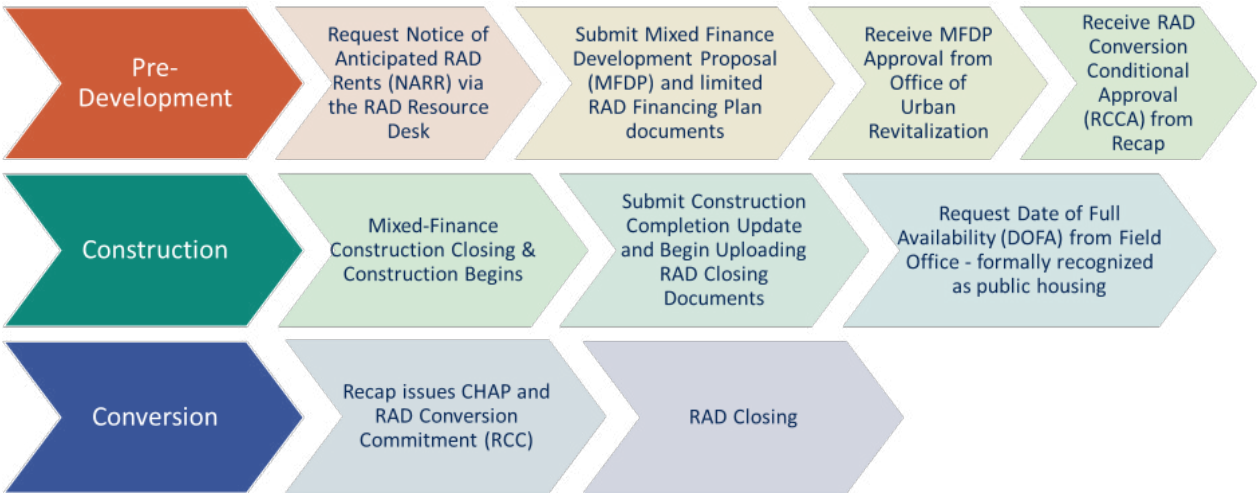
For new construction and/or acquisitions with rehabilitation, there are three phases in the process of developing and converting these units: (1) Pre-Development (or Pre-Acquisition); (2) Construction (or Rehab); and (3) Conversion.

Key Steps in a Faircloth-to-RAD Development

Figure 1 below outlines the keys steps in any Faircloth-to-RAD development. Exhibit A at the end of this guide provides a diagram of these steps indicating the responsibilities of HUD and the PHA in the process.

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Figure 1 – Key Steps in Faircloth-to-RAD Development Process



In some cases, a PHA may be pursuing a Faircloth-to-RAD development as well as a RAD conversion of existing Public Housing units as part of a single transaction. In that situation, a PHA should reach out to the Office of Recapitalization (RAD@hud.gov) to inquire about a dual submission process. Exhibit B found at the end of this guide describes the process for "dual submissions."

HUD Offices Involved in a Faircloth-to-RAD Development

Several offices within HUD will be involved in any Faircloth-to-RAD development. Figure 1 below summarizes the responsibilities of each of the HUD offices involved.

Figure 2 – HUD Offices Involved in Faircloth-to-RAD Developments.

Office of Recapitalization (Recap), Multifamily Housing	Office of Urban Revitalization (OUR), Public and Indian Housing	Public Housing Field Office	HUD Office of General Counsel (OGC)
• Receives and generates Notice of Anticipated RAD Rents (NARR) on behalf of Office of Urban Revitalization • Issues Committment to enter Housing Assistance Payment Contract (CHAP) • Reviews RAD application components. • Issues RAD Conversion Conditional Approval (RCCA) • Issues RAD Conversion Committment (RCC) • Approves RAD Closing	• Accepts, reviews, and approves the Mixed-Finance Development Proposal • Conducts architectural review and confirms compliance with UFAS requirements	• Reviews RAD eligibility at time of NARR processing • Conducts Site and Neighborhood Standards Review • Approves Actual Date of Full Availability (DOFA)	• Mixed-finance evidentiary review prior to Mixed-Finance Development Approval • Engaged during RAD closing

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Faircloth-to-RAD Process: Pre-Development



1 Request a Notice of Anticipated RAD Rents

The Faircloth-to-RAD development process begins with a PHA's request for the Notice of Anticipated RAD Rents (NARR), which provides the PHA the RAD rents the property can expect post-conversion. It also indicates to the Office of Recapitalization and the Office of Urban Revitalization the PHA's interest in developing and converting units from its available Faircloth authority. The NARR request is made through the RAD Resource Desk (www.radresource.net) by starting a new "Action" and selecting the "Faircloth Conversion Reservation" option. The PHA will be prompted to provide project-specific information needed to calculate the estimated RAD rents for the transaction.

Information Needed to Calculate your Notice of Anticipated RAD Rents (NARR)

In the RAD Resource Desk, you will also be asked to complete an Excel workbook titled "Property Expense Level Estimator" which will ask for inputs on your proposed project including:

- Size of Project (# of units)
- Age of Property
- Unit Sizes (Bedroom Mix)
- Building Type
- Occupancy Type
- Location
- Neighborhood Poverty Rate
- Percent of Households Assisted
- Geography

When the NARR is issued, the PHA has reserved conversion authority under RAD so that when a project achieves the Actual Date of Full Availability (DOFA)[1], the PHA can be assured that there is availability under the statutory cap of Public Housing units that can be converted under RAD (currently set at 455,000 units). As long as a PHA has existing Faircloth authority, it can request a NARR and reserve conversion authority under RAD.

There is no binding commitment to pursue development with a NARR request, so PHAs should feel comfortable requesting a NARR early in the process to determine the feasibility of a potential project.

When requesting a NARR, PHAs are required to provide a comparable PIC Number from a property within their inventory for HUD to use in estimating future RAD potential rents. PHAs should be using properties that are comparable to the proposed development in the follow key areas:

- Tenant population served (families v. senior/disabled);
- Tenant potential rent contributions (formula income);
- Real estate tax/PILOT treatment;

[1] The DOFA is the last day of the month in which substantially all (95% or more) of the units in a Public Housing project are available for occupancy. 24 CFR 905.108. The DOFA is important as it represents the date the PHA can enter the new units in the PIH Information Center (PIC) as Public Housing units and they become eligible to convert under RAD.

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- Utility consumption and payment/allowance structure;
- Audit costs; and
- Add-ons;

PHAs that have no Public Housing properties in PIC or do not have a comparable project in their inventory may use the PIC Number of a Public Housing project in a neighboring PHAs inventory.

Please note that if the specific project characteristics or unit configuration used to calculate the RAD rents in the NARR change before the PHA submits its Mixed-finance Development Proposal (MFDP), the PHA may need to provide updated information for HUD to calculate revised rents.

Augmenting Faircloth-to-RAD Rents

Sometimes, the proposed rents a PHA receives in the NARR will be insufficient to support development, and the agency may want to increase the contract rents at the property. PHAs have certain flexibilities under Section 1.6.B.5 and 1.7.A.5 of the RAD Notice to make modifications to the rents, including through rent bundling, using Moving to Work (MTW) Demonstration flexibility, and implementing up to a $100 per unit per month increase to RAD rents for PBRA conversions located in an Opportunity Zone.[2]

As set forth in Section 1.6.B.5 of the RAD Notice, MTW agencies may use their MTW funding flexibility to set the initial contract rents higher than those provided in the NARR. Non-MTW agencies are permitted to augment their rents using HAP reserves, as set forth in Section VI of the RAD Supplemental Notice (H-2023-08/PIH-2023-19).

Faircloth-to-RAD or Project-Based Vouchers?

One of the advantages of Faircloth-to-RAD is that it allows a PHA to stretch their funding to produce a greater number of units than if the authority were to try and create new units solely by project basing existing vouchers.

Take the example illustrated in Exhibit C. Without Faircloth-to-RAD, the PHA would have to commit $826 in HCV funding to bring a single Project-Based Voucher (PBV) unit online.

With Faircloth-to-RAD, the PHA only needs to commit $388 in HCV funding to bring a new PBV unit online, since $438 in new subsidy is provided by the Faircloth-to-RAD rents.

Now, for every $826 in HCV funding the PHA would've committed to bring on 1 regular PBV unit, the PHA can bring on 2 Faircloth-to-RAD PBV units.

Rent Augmentation for MTW Agencies

As with any RAD conversion, MTW agencies may use their MTW funds to set the initial contract rents higher than the calculated NARR rents. Agencies must use existing MTW funds, as allowed by the MTW Agreement or MTW Operations Notice, to supplement the NARR rents, and any use of MTW funds in setting higher 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, MTW Operations Notice, or successor notice.

When an agency augments the RAD rents, HUD will provide new, incremental voucher subsidy to the agency's voucher program which will be added to their HCV renewal baseline. The level of subsidy the agency is using to augment the RAD rents will be initially funded from available funds, but will need to be budgeted for in the agency's renewal funding cycles:

[2] See Section 1.7.A.5.e of the current RAD Notice for more details on Opportunity Zone rent increases for PBRA conversions under RAD.

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- For agencies whose renewal funding is based on HAP expenses in the prior year (the expansion MTW agencies), PHAs will use voucher reserves or MTW funds to augment the rents. Once expended, as with any other eligible expenditure of reserves, those funds will be built into the agency's voucher renewal baseline for the following year.
- For agencies whose renewal funding is based on a formula in their MTW Agreement (the original 39 MTW agencies), agencies can use any MTW funds to augment the rents and will need to incorporate into their long-term budgeting of their annual MTW funding the level of subsidy the agency is using to augment the RAD rents.

Augmenting Faircloth-to-RAD Rents for non-MTW Agencies

Non-MTW PHAs may use existing HAP reserve funds to augment the initial contract rents set forth in the NARR when certain criteria are met. A non-MTW Agency can augment Faircloth-to-RAD rents under either of the following two scenarios. Rent augmentation flexibilities for non-MTW agencies are set forth in Section 1.6.B.5f of the RAD Notice.

Scenario 1

1) The Faircloth-to-RAD project is in one of the following locations:
    a. A Metropolitan Statistical Area, Micropolitan Statistical Area, or ZIP code where the rental vacancy rate is less than 4 percent; or
    b. A ZIP code where 90 percent of the Small Area FMR is more than 110 percent of the metropolitan area FMR.

AND

2) The Faircloth-to-RAD units are made exclusively available to people who are elderly, youth receiving HCV Family Unification Program assistance, or people who are eligible for supportive services.

Scenario 2

1) The Faircloth-to-RAD project is in one of the following locations:
    a. A Metropolitan Statistical Area, Micropolitan Statistical Area, or ZIP code where the rental vacancy rate is less than 4 percent; or
    b. A ZIP code where 90 percent of the Small Area FMR is more than 110 percent of the metropolitan area FMR.

AND

2) The Faircloth-to-RAD units do not make up more than:
    a. The greater of 25 units or 25% of the units in the project; or
    b. The greater of 25 units or 40% of units in the project if it is in census tract where the poverty rate is no greater than 20%.

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When submitting the NARR request, the Resource Desk will automatically check for eligibility to augment rents for the location criteria (1.a. and 1.b.) specified above based on 5-year American Community Survey rental vacancy data in HUD's Market-at-a-Glance report and FMR data, both of which are available on huduser.gov.

To find vacancy data for your MSA, visit the Market-at-a-Glance reports on https://www.huduser.gov/portal/ushmc/mag.html, select "MSA Reports" from the dropdown menu, and the MSA in which the project will be built. Each report includes a table on housing market conditions which includes the most recent rental vacancy rate for the MSA. HUD will accept any area which has documented an annual rental vacancy rate of less than 4% at least once in the past three years.

To compare the Small Area FMR (SAFMR) data to the metropolitan FMR data, you can use the published SAFMR published by HUD's Office of Policy Development and Research, available here.

If the property does not meet either of these criteria based on the data available on huduser.gov, PHAs can demonstrate that the property is in a low rental vacancy area by submitting to HUD an independently performed market study showing rental vacancy rates of less than 4% for the MSA or ZIP code. HUD will accept market study materials the PHA may have already obtained for the mixed-finance development proposal, or LIHTC or other financing applications for the proposed project.

With respect to eligibility criteria 2 in scenario one, "persons eligible for supportive services" is to be defined by the PHA. As an example, the PHA's definition could include such services as: Meal services, housekeeping aid, personal assistance, transportation services, health-related services, case management, childcare, educational and employment services, job training, counseling, etc. Note that individuals do not have to be receiving services, they only need to be eligible for them.

Assuming a non-MTW PHA has met the qualifying conditions for a Faircloth-to-RAD rent augmentation, it can use Section 8 HAP reserve funds to increase the rents given in the NARR. Like expansion MTW agencies, reserve funds that are used for rent augmentation in the first full year after conversion are built into the agency's voucher renewal baseline for the second full year and each subsequent year after conversion.

Requesting Rent Augmentation

Any rent augmentation the PHA intends to make can be applied to the rents reflected in the NARR. When requesting the NARR, the anticipated RAD rents can be viewed through the RAD Resource Desk after Recap has received Capital and Operating Fund estimates from OUR.

If a PHA wishes to modify the rents with MTW funds or HAP reserves, it can request to do so by communicating to HUD how much additional funding per unit should be added to the rents up to initial contract rent setting limits (110% of FMR for PBV; and 120% of FMR for PBRA). Note that agencies using Small Area FMRs as their payment standard for their voucher program should use the Small Area FMR when determining the contract rent setting limit.

Alternatively, if the PHA already knows the rents needed for the project to be viable, the PHA can indicate the rents it needs up front when requesting the NARR, rather than waiting for Recap to provide

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the base NARR rents. In all cases, the augmented rent amounts will be recorded in the NARR with the portion covered by MTW funds or HAP reserves noted separately.

2 Receive Notice of Anticipated RAD Rents (NARR)

Once HUD has calculated the RAD rents (including any requested augmentation) and conversion authority is secured, HUD will issue a NARR to the PHA, which contains the future RAD rents at the property. The RAD rents listed in the NARR can be used by the PHA to underwrite the project and should be reflected in the PHA's Mixed-finance development proposal (MFDP) that is submitted to the Office of Urban Revitalization (OUR). A PHA should receive a NARR prior to submitting a Mixed Finance Development Proposal. PHAs must use the Contract Rents as shown in the NARR (including any amount used to augment the base NARR rents) to complete the required Mixed-Finance Development Proposal Calculator (Form HUD-50156) and pro forma projections as part of the MFDP which is available on the Office of Urban Revitalization's website at www.hud.gov/mixedfinance.

Under RAD, a property receives an increase to the post-conversion RAD rents each year according to an Operating Cost Adjustment Factor (OCAF) published annually. For a Faircloth-to-RAD development where there may be many years before the issuance of the RAD CHAP and final RAD closing, the property's rents will receive OCAF adjustments for each year that passes; those increases will be applied to the rents in the NARR after construction is complete when the CHAP is issued. Recap will ensure that all applicable OCAF increases have been completed before the RAD closing.

Aligning Your Proposal with Mixed-Finance Requirements

During the pre-development phase for a Faircloth-to-RAD project, PHAs and development partners should consider Public Housing development requirements, including the regulations under 24 CFR § 905 which govern the Public Housing capital fund program as well as the Capital Fund guidebook.

Faircloth-to-RAD developments must propose units that can be constructed and operated as Public Housing units. PHAs may not propose to develop Faircloth-to-RAD units that are Single Room Occupancy (SRO) or would result in families with children being housed in high-rise elevator buildings since this is prohibited by the Housing Act as well as 24 CFR § 905.312(b)(5). As with all new Public Housing developments, Faircloth-to-RAD proposals must meet accessibility guidelines as described in 24 CFR § 905.312 and 24 CFR Part 8.

Proposals should provide ownership structures that will comply with RAD program ownership and control requirements outlined in Section 1.4.A.11 of the RAD Notice. Except where permitted to facilitate the use of tax credits, RAD requirements call for ownership or control of the project by a public or non-profit entity.

3 Request a Preliminary Conversion Call

When the PHA is close to submitting the MFDP, it should request a preliminary conversion call with both the Office of Urban Revitalization and the Office of Recapitalization. The preliminary conversion call will discuss the following agenda items:

- The Faircloth-to-RAD development process
- The construction delivery and occupancy plans, specifically whether all units will be completed at once or whether units will be delivered for occupancy over time (e.g., on a building-by-building basis)

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- Permanent financing terms and the timing of the RAD conversion relative to construction completion and the take-out of the construction loan by permanent financing
- Funding during the year of conversion (conversion occurs after the DOFA)

4 Submit Your Mixed Finance Development Proposal & Limited RAD Financing Plan Documents

PHAs can submit the complete Mixed-finance Development Proposal via email to OUR@hud.gov. PHAs will need to include a few additional pieces of information to support the Faircloth-to-RAD underwriting. See Exhibit F of this guide, titled 'MFDP Proposal when the Contemplating a RAD Conversion.' Specifically, the MFDP proposal must include the following items:

1) A Capital Needs Assessment (CNA) to support the Initial Deposit to Replacement Reserve (IDRR)/Annual Deposit to Replacement Reserve (ADRR). If no CNA is submitted and the project entails new construction or the use of 9% LIHTC, the ADRR must be at least $450 per unit per annum (PUPA).
2) A legal opinion based on the state and local law where the project is located that supports a continuation of the Payment In Lieu of Taxes (PILOT) agreement after conversion to Section 8 under RAD.
3) An Environmental Review that includes the RAD conversion in the description of actions being taken. PHAs must receive an Authority to Use Grant Funds via their Part 58 responsible entity; PIH does not complete Part 50 reviews for Faircloth-to-RAD developments.
4) The PHA's Annual Plan/MTW Plan or Significant Amendment to the Annual Plan/MTW Plan must include a description of the RAD conversion. Similarly, if the PHA is an initial MTW agency, the PHA must provide a copy of the RAD amendment to Attachment A of the MTW Agreement.

All Faircloth-to-RAD development proposals will be subject to Subsidy Layering Review in accordance with "Administrative Guidelines: Subsidy Layering Review for Project-Based Vouchers," 85 FR 12001; February 28, 2020 or successor notices and must therefore have firmly committed financing in place prior to issuance of HUD development proposal approval.

RAD Financing Plan Documents to Submit

Parallel to submission of the MFDP, a PHA will upload to the Resource Desk only the RAD Financing Plan documents that are not covered within the MFDP, specifically the following items:

1) The Conversion Overview, including a description of the proposed RAD ownership structure
2) Selection of Program Platform: Project Based Vouchers or Project Based Rental Assistance
3) Certification of Board Approval of the RAD Conversion
4) Approved Significant Amendment to PHA Plan and, if applicable, the executed Attachment A of the MTW Agreement
5) Title Report

Since OUR is underwriting the project as Public Housing and because the conversion of assistance under RAD will not occur until construction completion, Recap will underwrite the RAD conversion as a no-debt conversion without any construction. Therefore, **all development activity should be reflected in the MFDP sources and uses of funds, even if the expenditures may occur after the date of the RAD conversion**.

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The RAD Transaction Log is not required at this time because Recap expects that all costs known at this stage of the process will be reflected in the Mixed-finance Development Proposal and the RAD "Sources and Uses" of funds will likely involve very minimal transaction costs.

5 Receive Mixed Finance Development Proposal Approval

When OUR has completed a review of the MFDP, the reviewer will present the project to a Mixed Finance Panel internal to HUD. With panel approval, the PHA will be asked to submit evidentiary documents for HUD legal review in preparation of closing.

The mixed finance closing review includes, but is not limited, to the preparation and approval of the following evidentiary documents:

- Mixed-finance Amendment to the Annual Contributions Contract (ACC),
- Declaration of Restrictive Covenants (DORC), and
- Regulatory & Operating Agreement (R&O).

The bulleted documents listed above are unique to Public Housing and will be terminated at the time of the RAD conversion (see templates referenced in Exhibit E of this document). As a result, these documents are expected to be effective for only a short time. Therefore, the PHA should draft and negotiate these documents with that limited lifespan in mind. OUR and the PHA should also inform the HUD Office of General Counsel team that the transaction will be converting to RAD once the units are entered into PIC so that the legal documents prepared at the time of the mixed-finance closing are reviewed with RAD in mind.

During the mixed finance closing review, the PHA also submits to HUD, as applicable, the first mortgage and subordinate mortgage loan documents, the ownership entity partnership agreement/operating agreement, the ground lease, construction documents, the management agreement, the management plan, and all other documents for the real estate development transaction. To plan ahead for the eventual RAD Closing, PHAs are strongly encouraged to also submit versions of the following documents with the Mixed-finance evidentiary documents as they will be amended (or applicable) when the RAD Closing is effective. The assigned HUD attorney will review these documents along with the standard mixed-finance evidentiary documents:

- PHA's Administrative Plan
- Copy of the Section 8 Tenant Lease, and applicable Lease Addendum(s)
- Management Agreement (as amended, if there will be changes as a result of the RAD conversion)

Upon completion of HUD's legal review and acceptance of all evidentiary documents, OUR will issue a letter approving the PHA's MFDP.

6 Receive RAD Conversion Conditional Approval (RCCA)

Following OUR's issuance of the Mixed-finance approval letter, Recap will issue a RAD Conversion Conditional Approval (RCCA), along with a draft RAD Conversion Commitment (RCC). The draft RCC will stipulate the conditions upon which the PHA is receiving conditional approval and outline the steps that need to be completed for the PHA to effectively convert through RAD.

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Faircloth-to-RAD Process: Construction



1 Mixed-finance Construction Closing and Beginning of Construction

Once the MFDP has been approved and the PHA has received its RCCA, the project can proceed to construction. After the PHA closes on the construction financing and begins construction or rehab activity, the PHA and HUD will not be in regular contact with HUD for several months while the construction is being completed.

2 Submit Construction Completion Update

The PHA is responsible for notifying Recap when construction of the units is nearing completion. The timing of such notification is at the PHA's discretion but must be **at least 60 days before** the Actual Date of Full Availability (DOFA) to minimize the length of time the project will be operated as Public Housing. At this stage in the process, and as described in the RCCA, the PHA must upload/update the following on the RAD Resource Desk:

- **Construction Completion Update** – A document on the PHA's letterhead that contains the PHA's certification that the completed project is consistent with the terms specified in the RCCA. The PHA should include any work to be done after the date of the RAD conversion which was not reflected in the MFDP or subsequent OUR approvals. The PHA should also inform Recap of any financing liens to be created post-RAD conversion so that they may be reviewed, approved, and identified as HUD-approved liens in the Additional Provisions exhibit of the RCC. PHAs may not place additional liens on a RAD converted property without HUD approval and this pre-approval will ensure a smooth closing of any post-RAD financing liens.
- **Attachments to the Construction Completion Update** – explains and documents material changes from the transaction structure as previously approved by Recap, if necessary.
- **Transaction Log** – The Transaction Log will be pre-populated to reflect $0 Sources and $0 Uses as all sources and uses should have been approved and reflected in the Mixed Finance Development Proposal. At the time of the construction completion update, the PHA will populate the Transaction Log with any changes to the sources and uses that are not reflected in prior OUR approvals and to reflect any transaction costs specifically related to the RAD conversion. The PHA must also enter pro forma data to confirm the 20-year viability of the project and finalize the rents. The pro forma entries should include items such as updated rents to reflect any Operating Cost Adjustment Factor (OCAF) adjustments applied to the original NARR rents, the ADRR, utility allowances, monthly debt service at the property, etc.
- **A Radon Report** consistent with the requirements of Section 9.6.3 of the MAP Guide. This is required for both PBV and PBRA conversions.

Once all applicable documents and updates identified above are complete and uploaded to the Resource Desk, Recap will review the submission to confirm that the transaction complies with RAD requirements. At this time, PHAs are strongly encouraged to begin preparing RAD closing documents to ensure a swift closing.

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A Closing Checklist detailing all of the required closing documents is available in the Document Library on the RAD Resource Desk. As noted above, many of these documents can be negotiated at the time of the Mixed-Finance closing if the PHA chooses.

3 Request Date of Full Availability from HUD Field Office

Once the PHA has obtained Certificates of Occupancy for 95% of the units, the PIH Field Office can enter the actual DOFA date in PIC, officially designating the units as Public Housing. To request the Actual DOFA date be entered in PIC, the PHA must submit form HUD-52423 to the PIH representative in their local Field Office.

Faircloth-to-RAD Process: Conversion



1 Office of Recapitalization Issues Commitment to Enter into a Housing Assistance Payment Contract & RAD Conversion Commitment

Once the PHA has notified Recap that construction is nearing completion and Recap has accepted the Construction Completion Update and other applicable documents, Recap will coordinate with PIH to monitor when the Actual DOFA date has been entered in PIC. Once the date is entered, Recap will issue the Commitment to Enter into a Housing Assistance Payments Contract (CHAP) and the RAD Conversion Commitment (RCC) shortly thereafter. The RAD conversion can then proceed to final RAD closing reviews.

Recap will then assign a Closing Coordinator and HUD's Office of General Counsel will assign counsel to close the RAD conversion. The PHA may begin uploading the RAD closing documents to the RAD Resource Desk. Uploading documents at this time is strongly encouraged as it will allow Recap and HUD's Office of General Counsel staff, which work with both Recap and PIH, to begin reviewing the closing documents to prepare for RAD closing. This will minimize the length of time the project operates as Public Housing between construction completion and RAD closing when it converts to Section 8.

2 Complete RAD Closing

The RAD closing process for Faircloth-to-RAD developments is consistent with all other RAD conversions. The closing process generally takes approximately 45-60 days, which begins when the PHA uploads a complete closing package to the Resource Desk.

Permanent loan conversion could occur before, simultaneous with, or after the RAD conversion. Any lenders will need to subordinate their loans to the RAD Use Agreement, and HUD's Office of General Counsel will need to review the draft subordination agreement(s) associated with the loans, that would be signed at conversion to permanent financing.

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In addition to the standard closing documents, the following documents will be required for closing a Faircloth-to-RAD development. These templates are available on the Resource Desk:

- Mixed Finance – Termination of Mixed Finance Amendment to the ACC
- Mixed Finance – Release from Declaration of Restrictive Covenants
- Mixed Finance – Termination of Regulatory & Operating Agreement

The PHA does not have to wait until the units are entered into PIC and the CHAP/RCC has been issued to prepare the RAD closing documents in order to expedite the RAD closing process. The RAD closing occurs once HUD approves all closing documents. Prior to CHAP/RCC issuance, the PHA team should familiarize themselves with the following guidance documents available on the Resource Desk:

- Overview of the RAD Closing Process for PHAs
- RAD Closing Checklist & Overview – PBRA[3]/PBV

Other Important Considerations

Funding in the Conversion Year

For the remainder of the calendar year in which the Covered Project's Section 8 Housing Assistance Payments (HAP) contract is effective (the "year of conversion"), the PHA will receive funding through the Public Housing Program's Operating Fund formula based on the level of Public Housing subsidy that it is eligible to receive under that formula. Regardless of the initial contract rent amount or Operating Cost Adjustment Factor, the Operating funds are the only subsidy the PHA will receive for the balance of the calendar year until it begins receiving the HAP payments. New Public Housing projects are funded in the following way:

1) PHAs must follow Operating Fund processing guidance[4] to initiate funding for new projects. Please note that each year the Operating Fund establishes a new project submission deadline, typically in the early summer of each year. **Projects with actual DOFAs that fall after this date and/or that fail to provide the Operating Fund submissions by this date will not receive Operating Funds in the year of conversion**.
2) The Public Housing Capital Fund provides funding to PHAs each year based on Public Housing units in PIC on the Capital Fund certification date in the prior calendar year. As such, **PHAs do not receive funding for new projects in the year that they come on-line in PIC**.

As with all RAD transactions, an Initial Year Funding Tool is required to be submitted as part of the Financing Plan; however for a Faircloth-to-RAD development, the PHA should receive a Faircloth-to-RAD specific version of the tool from their assigned Office of Recapitalization Transaction Manager. This tool is submitted in final form at RAD Closing. It is the Initial Year Funding Tool that establishes the subsidy that the PHA will receive in the year of conversion and not the terms set forth in the R&O agreement.

[3] For PBRA conversions, HUD Asset Management requires that the property and owner information is entered into APPS and that the Management Certification is completed. Please refer to the Resource Desk "Submitting the Financing Plan" section of the Document Library to access '2530 Guidance for RAD Transactions' and '2530 MF Development Compliance and Credit Requirements' for more information.

[4] See https://www.hud.gov/sites/dfiles/PIH/documents/2023-25pihn.pdf for Calendar Year 2024 guidance.

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As such, developers and **PHAs should take Operating Fund timing considerations into account when considering the planned construction of the project and in creating their budget and initial operating reserves**. PHAs and developer partners should anticipate significant reserves be established to supplement Operating Funds (if any) until the project is receiving normal RAD rent revenue, particularly if the permanent loan conversion requires stabilized occupancy for a period of time that would be impacted by the lack of both Capital and Operating Funds in the year of conversion. Like all RAD transactions, PHAs can use Public Housing funds as a source in the conversion of Faircloth-to-RAD projects and may do so for the purpose of supplementing operating reserves in the year of conversion. The project will begin receiving Section 8 subsidy payments on January 1 following the HAP contract effective date.

Resident Engagement Requirements in Faircloth-to-RAD Development

In addition to requirements for a PHA to include a Faircloth-to-RAD development in its Five-Year Plan, Annual PHA Plan, or MTW Plan, HUD requires the following engagement with residents of an impacted property. When construction is complete, the PHA can choose whether to begin leasing the units as Public Housing under Public Housing rules or to wait and lease only after RAD conversion, when the units are under the Section 8 program. If the units are delivered for occupancy over time (e.g., on a building-by-building basis) and/or have multiple DOFA dates, the RAD conversion can only occur after all units exist as Public Housing. The CHAP and RCC are not issued until the last building has established a DOFA date in PIC.

If units are leased as Public Housing, the PHA must consider the resident engagement requirements under the RAD Notice that are applicable given when the residents begin occupancy relative to where the transaction is in the RAD conversion process. In a situation where residents are moving in **prior** to issuance of the RCC, the PHA must conduct all resident engagement activities required during the period between submission of the Financing Plan and issuance of the RCC.[5] In the situations where tenants are admitted to the property **after** completion of construction and prior to the closing of the RAD conversion, the PHA must take the following steps prior to the execution of the lease:

- Inform the residents in writing of the pending RAD conversion through issuance of the RAD Information Notice (RIN) to inform residents of the PHA's intent to pursue a conversion and of the residents' rights under a conversion.
- Provide a written explanation of the leasing and occupancy changes that will occur soon after move-in resulting from the RAD conversion to Section 8. New Section 8 leases should be prepared with the tenants prior to RAD closing. The new leases would be signed and effective as of the HAP contract effective date.
- Meet with each resident household to discuss the conversion, explain any written materials, and provide the residents an opportunity to ask questions. The resident meeting can be conducted on an individual household basis.

[5] For purposes of resident engagement in the new construction context, the NARR shall be treated as the equivalent of the CHAP. As the units are typically new, developed based on Faircloth authority, there are no residents in occupancy pre-application, or prior to the Concept Call, or between the Concept Call and the Financing Plan submission.

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PHAs should include documentation of the resident meetings and comments in the RAD Closing document submission.

Alternatively, if the proposed Faircloth-to-RAD development is for an existing, occupied building at the time the PHA requests a NARR, then a modified version of the resident engagement processes (Section 1.8.A through 1.8.D in the RAD Notice) applies:

- Prior to submitting the request for the NARR, the PHA must issue a RAD Information Notice and General Information Notice, if applicable, and conduct two resident meetings, and prepare written responses to comments received from residents.
    - The RAD Information Notice, or RIN, informs residents of their rights, the nature of the project plans, whether any relocation is anticipated, description of resident meetings, and a means for contacting HUD.
    - The General Information Notice, or GIN, may be required in certain circumstances where the project plans will involve acquisition, rehab, or demolition, and provides a description of the project, activities planned, and relocation assistance that may be available.
- After issuance of the NARR and prior to submission of the MFDP, the PHA must conduct two additional meetings with residents.
- After mixed finance approval and prior to completion of the acquisition or development, the PHA must conduct one additional meeting with residents.

As is consistent with all RAD conversions, tenant notification within the context of a Faircloth-to-RAD Development should be robust and transparent. Given the intent for all of the tenants to be Section 8 tenants, every effort should be made by the PHA to inform the tenants of the conversion process and timing as the transaction comes online. Refer to Section 1.8 Resident Engagement of the RAD Notice for detailed information on resident notification and meeting requirements.

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Who to Contact for More Information

- **HUD's Office of Urban Revitalization: OUR@hud.gov**
    - Contact for more information on Mixed Finance Development Process
- **HUD's Office of Recapitalization: RAD@hud.gov**
    - Contact for more information on requesting your Notice of Anticipated RAD Rents, or the RAD conversion components of a Faircloth-to-RAD development.
- **Mixed-Finance Development**
    - Forms, Tools, related Notices and other guidance on Mixed Finance Development program rules are posted on https://www.hud.gov/mixedfinance
- **RAD Notices**
    - RAD Supplemental Notice 4B, and RAD Notice Rev-4 as amended by Supplemental 4B are posted on www.hud.gov/rad and www.radresource.net
- **Webinars**
    - Faircloth-to-RAD Development – September 20th, 2023
        - Recording
        - Slides
        - Transcript

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Exhibits

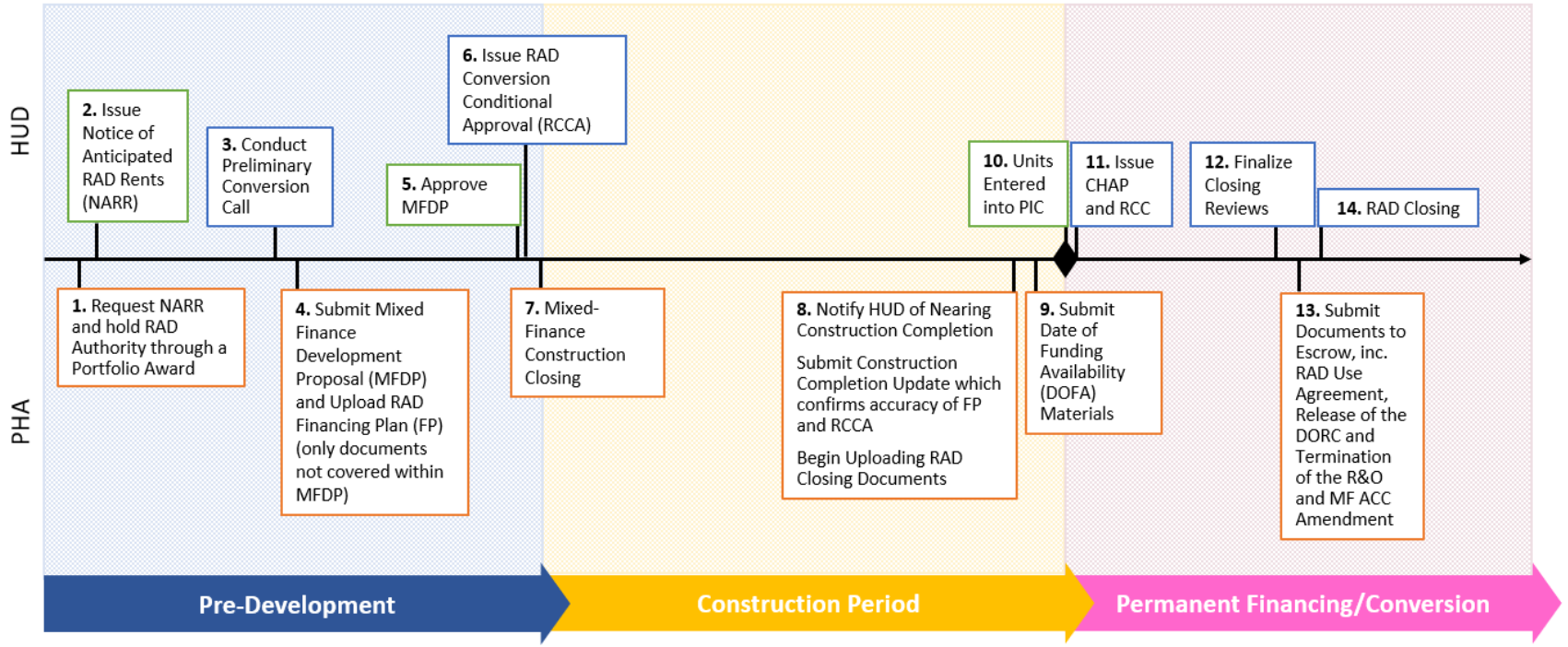
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Exhibit A – Faircloth-to-RAD Development Process Diagram

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Exhibit A

Faircloth to RAD Conversion Process



Note: The PHA has the option to begin leasing units as public housing or wait to lease as Section 8 after the units have completed the RAD conversion process. If units are leased as public housing, the PHA would have to execute new leases with the tenants in conjunction with the RAD Closing. Requirements of RAD Notice Rev-4 regarding resident notification and meetings must be met. For example, if residents move in after RCC and before closing, the resident notification and meeting requirements applicable to the period between RCC and RAD Closing must be met. See Guidance on Faircloth to RAD conversions for more information.

Legend

- PHA Action
- Recap Action
- PIH Action

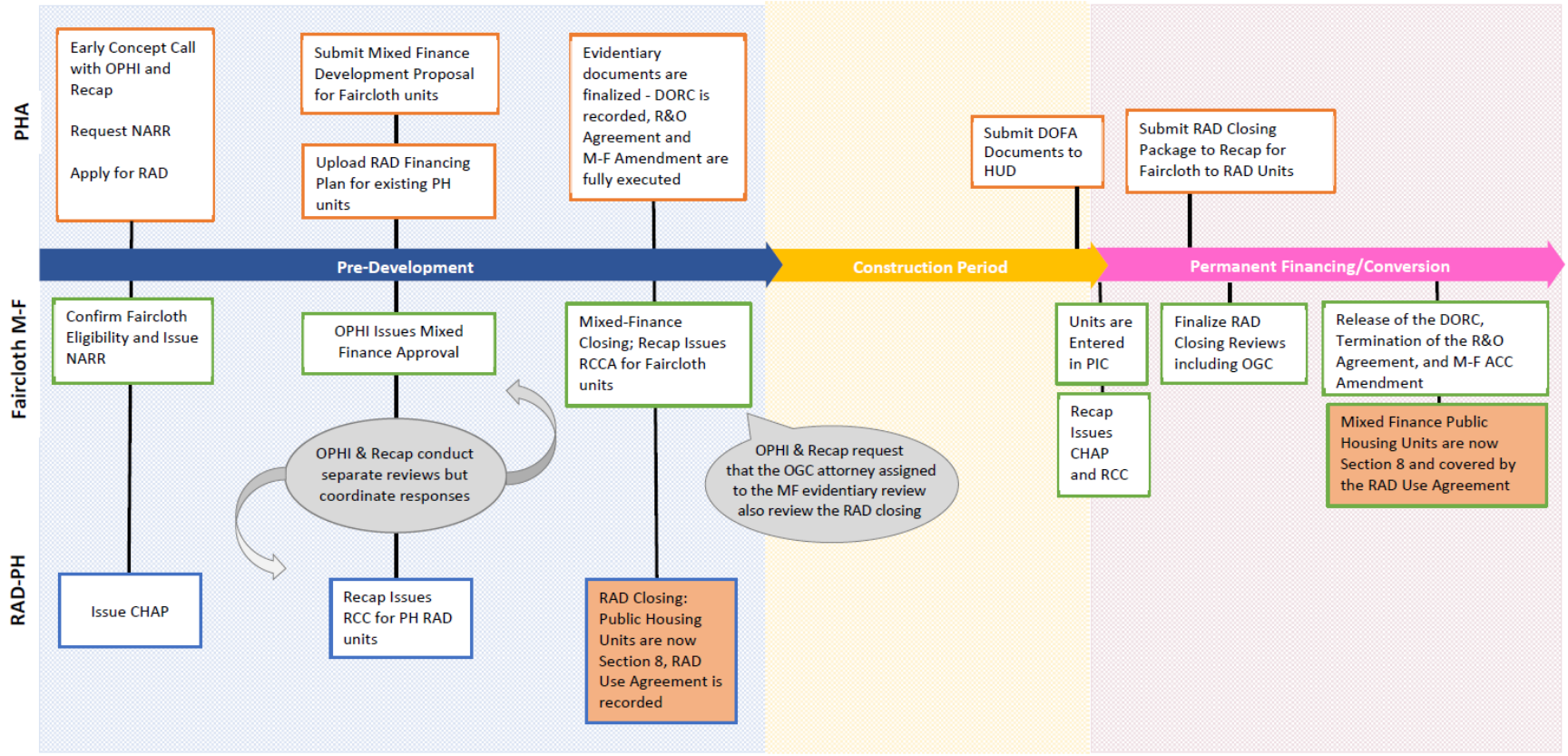
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Exhibit B – Dual Submission Faircloth-to-RAD Development Process Diagram

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Exhibit B

Faircloth to RAD Conversion Process – Dual RAD and F2R Submissions

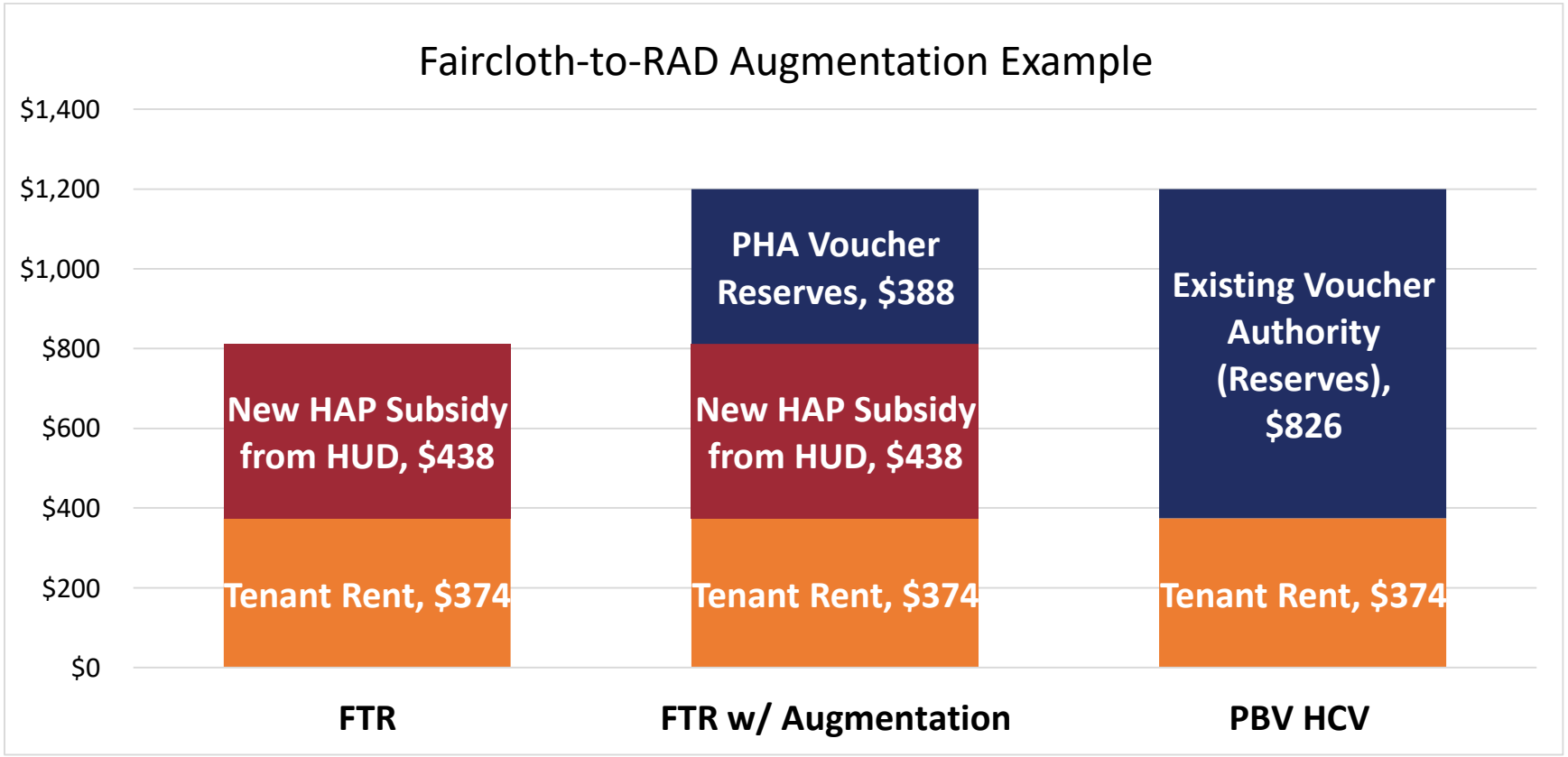


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Exhibit C – Faircloth-to-RAD Rent Augmentation

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Exhibit C



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Exhibit D – Sample Notice of Anticipated RAD Rents (NARR)

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[Date]

[Executive Director Name]
[Housing Authority Name]
[Housing Authority Address]
[Housing Authority City, State and Zip]

Re: Notice of Anticipated RAD Rents for
[Proposed Project Name and Address]
[Housing Authority Name] (PHA)

Dear [Executive Director]:

The Department has received your expression of interest in undertaking Public Housing development activities and then subsequently converting the Public Housing assistance under the Rental Assistance Demonstration (RAD) for [number] units at the above-named project.

Public Housing development activities are governed by the requirements set forth in 24 C.F.R. Part 905 Subpart F. For a project to be included within the Public Housing program, the following criteria must be met: 95% of the proposed Public Housing units must have a certificate of occupancy, the Department must issue a Public Housing Date of Full Availability (DOFA) applicable to the project (24 C.F.R. 905.108 and 905.600(c)(4), the Department must activate the Public Housing unit in the PIH Information Center (PIC) system, and the Department must confirm compliance with all applicable requirements of 24 C.F.R. Part 905 Subpart F. Once these criteria are met, the Public Housing assistance will be available to these units, which may then be converted through RAD.

Conversion of Public Housing assistance under RAD is governed by the Consolidated and Further Continuing Appropriations Act of 2012 (P.L. No. 112-55, approved November 18, 2011); as amended by the Consolidated Appropriations Act, 2014 (P.L. 113-76, approved January 17, 2014); the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235, approved December 16, 2014); the Consolidated Appropriations Act, 2016 (P.L. 113-113, approved December 18, 2015); the Consolidated Appropriations Act, 2017 (P.L. 115-31, approved May 5, 2017); the Consolidated Appropriations Act, 2018 (P.L. 115-141), approved March 23, 2018); section 8 of the United States Housing Act of 1937 (Act), 42 U.S.C. 1437 et seq.; and the Department of Housing and Urban Development Act, 42 U.S.C. 3531 et seq (collectively, the "RAD Statute"). Conversion under RAD is further governed by the requirements contained in the Rental Assistance Demonstration – Final Implementation, Revision 4 Notice H-2019-09 PIH-2019-23 (HA) (the "RAD Notice").

Subject to the conditions enumerated in this letter, this letter serves to notify you that:

- The Department has received the submission of information sufficient to serve as the RAD Application for the above referenced project.
- The Department has confirmed eligibility for the conversion of assistance of ____ units to Section 8 assistance under RAD.

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- The Department will issue a Commitment to Enter into a Housing Assistance Payments Contract (CHAP) for the above-referenced project when the project is eligible to be included within the Public Housing program pursuant to 24 C.F.R. Part 905 Subpart F.
- Based on the unit mix you have proposed, the RAD unit Contract Rents upon conversion of the above referenced project will be as set forth in the attached Exhibit A.

The foregoing notification is subject to the following conditions:

- Changes in the unit mix and characteristics of the building(s) to be developed may impact the anticipated RAD unit Contract Rents shown in Exhibit A. This notification will need to be amended and updated to be consistent with your Public Housing development proposal, submitted pursuant to 24 C.F.R. Part 905 Subpart F. To avoid delays, you must provide updated information to HUD if the unit mix and characteristics of the building(s) to be included in the Public Housing development proposal are modified.
- The units must be developed, fit for occupancy, and included within the Public Housing program pursuant to the requirements of 24 C.F.R. Part 905 prior to conversion.
- There must be no material change in the status of the Public Housing authority relative to the criteria set forth in Section 1.3.2 through Section 1.3.7 of the RAD Notice.
- When so instructed by the Department, the PHA must submit through the RAD Resource Desk all documents and certifications necessary to implement a RAD conversion as described in the RAD Notice and must meet the requirements contained in the RAD Notice. This notification shall be interpreted and implemented in accordance with all statutory requirements, and with all HUD requirements, including amendments or changes in HUD requirements, the RAD Notice, and all other applicable RAD guidance.
- [***If they do not have a Portfolio Award because they don't have an active CHAP and can't find a partner PHA to reserve authority for them, insert the following special condition:*** The RAD statute limits the number of units that may be converted under RAD, and conversion authority may be secured through a Portfolio Award by following the procedures outlined in the RAD Notice. The PHA does not currently have a Portfolio Award reservation. As such, the ability to convert the units discussed in this notification is dependent on the availability of adequate authority for conversion when the project has been issued a DOFA, the Public Housing units are activated in PIC, and the Department has confirmed compliance with all applicable requirements of 24 C.F.R. Part 905 Subpart F.]
- [***Insert here any additional conditions unique to this PHA which would normally be included in a CHAP for this PHA.***]

As this represents a conditional notification by the Department, the Department reserves the right to revoke or amend this determination at any time prior to issuance of the CHAP if the Department, in its sole judgment, determines that any of the following conditions are present:

- The PHA or any of the units proposed for development and conversion are not eligible for such activities;
- The PHA could not develop the housing as Public Housing, convert the housing under RAD, or operate the housing under either Public Housing or Section 8 due to prior or ongoing litigation;
- The proposed project and conversion strategy is not or will not be financially feasible;
- The PHA cannot demonstrate to HUD's satisfaction that it is making adequate progress for development and conversion;
- The PHA fails to comply with applicable requirements or deadlines;

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- The PHA fails to cooperate with the Department's requests;
- There is any violation of program rules, including fraud;
- The PHA fails to discuss the development plans as a significant action in the PHA's Five-Year Plan, Annual Plan, MTW Plan, or CFP 5-Year Action Plan, as applicable, or fails to submit an approved significant amendment of such documents to HUD; or
- The terms of the development or conversion activities would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

The Department will request periodic discussions with the PHA to assess whether the PHA is making adequate progress on the development of the Public Housing units and on planning for a RAD conversion. To ensure PHAs are making consistent progress, within one year of the date of this letter, the PHA must submit a development plan to the Office of Public Housing Investments. The PHA may submit a request for an extension through a project-specific due date, which request must be adequately justified. Approval of any request for an extension is at HUD's sole discretion. If the Department, in its sole judgment, determines that the PHA has failed to make adequate progress and the Department declines to extend the deadline for submission of a development plan, this notification will be revoked.

If you have any questions or concerns regarding the Public Housing development process, please contact your Office of Public Housing Investments Grant Manager. For questions or concerns regarding the anticipated RAD conversion process, please contact the Office of Recapitalization by accessing the RAD Resource Desk at www.radresource.net and selecting the option "Contact RAD."

Sincerely,

Susan A. Wilson
Director, Urban Revitalization Division
Office of Public Housing Investments

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EXHIBIT A

Contract Rents Subsequent to a
Rental Assistance Demonstration Conversion

The Contract Rents set forth below for the subject proposed Public Housing project are based on Fiscal Year 2022 Federal Appropriations and assumptions regarding applicable rent caps. Following the review and approval of the Public Housing development proposal, the final RAD Contract Rents will continue to be based on Fiscal Year 2022 Federal Appropriations and assumptions, without regard to potential changes in appropriation levels between the date hereof and date of the RAD HAP contract. The final RAD Contract Rents will be adjusted to reflect Operating Cost Adjustment Factors (OCAFs) and are subject to applicable program rent caps. In addition, prior to conversion, the PHA must provide HUD updated utility allowances to be included in the HAP contract.

Project Reference: [Proposed Project Name and Address]

Number of Bedrooms	Number of Contract Units	Base NARR Rent	Augmented Amount	Contract Rent
0				
1				
2				
3				
4				
5				

This rent schedule does not include utility allowances. Utility allowances will be added to the rent schedule and will increase the gross rent when the PHA provides HUD with data on the initial utility allowances. Utility allowances will be confirmed on issuance of the CHAP.

This rent schedule does not include any OCAF adjustment for which the PHA may be eligible. OCAF adjustments will be confirmed on issuance of the CHAP.

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Exhibit E – Sample RAD Conversion Conditional Approval

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF HOUSING

[Date]

[Executive Director Name]
[Housing Authority Name]
[Housing Authority Address]
[Housing Authority City, State and Zip]

Re: RAD Conversion Conditional Approval for
[Proposed Project Name and Address]

Dear [Executive Director]:

The Department has received your development proposal to create [number] new Public Housing units at the above referenced project (the "Project Units") pursuant to the requirements of 24 C.F.R. Part 905 Subpart F and your request for the subsequent conversion of such newly created Public Housing units under the Rental Assistance Demonstration (RAD).

As explained in the Notice of Anticipated RAD Rents dated _____, conversion under RAD is only possible after the Project Units have been built and the Department confirms compliance with the requirements of 24 C.F.R. Part 905 Subpart F and activates the units as Public Housing in the PIH Information Center (PIC) system. At that time, conversion of Public Housing assistance under RAD is governed by the Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55, approved November 18, 2011; the Consolidated and Further Continuing Appropriations Act of 2015 (P.L. 113-235), approved December 6, 2014; the 2017 Consolidated Appropriations Act (P.L. 115-31), approved May 5, 2017; the Consolidated Appropriations Act of 2018 (P.L. 115-141), approved March 23, 2018; section 8 of the United States Housing Act of 1937 (Act), 42 U.S.C. 1437 et seq.; and the Department of Housing and Urban Development Act, 42 U.S.C. 3531 et seq (collectively, the "RAD Statute"). Conversion under RAD is further governed by the requirements contained in the Rental Assistance Demonstration – Final Implementation, Revision 4 Notice H-2019-09 PIH-2019-23 (HA) (the "RAD Notice").

In conjunction with the approval by HUD's Office of Public Housing Investments (OPHI) of the development proposal under the requirements of 24 C.F.R. Part 905 Subpart F, HUD's Office of Recapitalization (Recap) has determined that, except as noted in this letter and the attachments hereto, the documents submitted to OPHI and Recap with respect to the Project Units satisfy the requirements of the Financing Plan under the RAD Notice and that your request meets RAD requirements. This letter serves as a conditional approval of your request to convert the Project Units under RAD.

In the event of a RAD conversion, the Project Units will receive rental assistance in the form of a 20-year [Project Based Rental Assistance/Project Based Voucher] Housing Assistance Payment (HAP) contract. Attached to this conditional approval as "Attachment A" is a draft of the RAD Conversion Commitment ("RCC"). This draft RCC includes the following exhibits:

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- **Exhibit A:** Special conditions and additional provisions of the anticipated RCC;
- **Exhibit B:** Anticipated Sources and Uses;
- **Exhibit C:** Monthly HAP Contract Rents; and
- **Exhibit D:** Scope of Work in addition to the work identified in the approved Public Housing development proposal.

Final approval and authority to implement the conversion of the Project Units is subject to the following conditions:

1) The Project Units must be developed, fit for occupancy, and included within the Public Housing program pursuant to the requirements of 24 C.F.R. Part 905 Subpart F.
2) There must be no material change in the status of the Public Housing authority relative to the criteria set forth in Section 1.3.2 through Section 1.3.5 and in Section 1.3.7 of the RAD Notice.
3) All the conditions and requirements of the draft RCC apply to this conditional approval.
4) [***If they do not have a Portfolio Award because they don't have an active CHAP and can't find a partner PHA to reserve authority for them, insert the following special condition:*** The RAD statute limits the number of units that may be converted under RAD, and conversion authority may be secured through a Portfolio Award by following the procedures outlined in the RAD Notice. The PHA does not currently have a Portfolio Award reservation. As such, the ability to convert the units discussed in this notification is dependent on the availability of adequate authority for conversion when the project has been issued a DOFA, the Public Housing units are activated in PIC, and the Department has confirmed compliance with all applicable requirements of 24 C.F.R. Part 905 Subpart F.]
5) [***Insert here any additional conditions unique to this PHA which would normally be included in a CHAP for this PHA.***]

As this notification is a conditional commitment by the Department, the Department reserves the right to revoke or amend this determination at any time prior to issuance of the CHAP and/or the RCC if the Department, in its sole judgment, determines that any of the following conditions are present:

- The PHA or any of the units proposed for development and conversion are not eligible for such activities;
- The proposed development and conversion strategy no longer meets the program and underwriting requirements of the RAD Notice;
- The PHA could not develop the housing as Public Housing, convert the housing under RAD, or operate the housing under either Public Housing or Section 8 due to ongoing litigation, an injunction or ruling issued by a court of competent jurisdiction;
- The PHA fails to comply with applicable requirements or deadlines;
- The PHA fails to cooperate with reasonable requests from the Department related to the Project Units;
- There is any violation of program rules, including fraud; or
- The terms of the development or conversion activities would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

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When the Project Units are approaching or have achieved construction completion, the PHA must submit through the RAD Resource Desk a "Completion Update" comprised of 1) a certification that the completed project is consistent with the documents reviewed by OPHI and Recap prior to issuance of this conditional approval or disclosing any material changes from such documents and 2) such additional documents and certifications as may be necessary to implement a RAD conversion as described in the RAD Notice. Following Recap's review and approval of the Completion Update and OPHI's confirmation that the project is included within the Public Housing program pursuant to 24 C.F.R. Part 905 Subpart F, the Department will issue for the above-referenced project a Commitment to Enter into a Housing Assistance Payments Contract (CHAP) and an RCC in the form attached hereto as Attachment A, as amended consistent with the Completion Update.

Regardless of whether the RAD conversion closes, HUD shall not be responsible for any expenses or transaction costs incurred by you or at your direction in connection with the RAD-related aspects of the transaction.

This conditional approval shall be interpreted and implemented in accordance with all HUD statutory and regulatory requirements, the RAD Notice, and all other applicable RAD guidance.

Thank you for your commitment to affordable housing and your interest in the RAD program. If you have any questions regarding your proposed RAD conversion, please contact the Office of Recapitalization by accessing the RAD Resource Desk at www.radresource.net and selecting the option "Contact RAD."

Sincerely,

Thomas R. Davis
Director, Office of Recapitalization

Attachments: Attachment A: Draft RAD Conversion Commitment

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Exhibit F – Mixed-finance Development Proposal When RAD Conversion is Contemplated

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Public reporting burden for this collection of information is estimated to average 16 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information is required for developing a mixed-finance rental project pursuant to HUD regulations 24 CFR 905. The information will be used to provide HUD with sufficient information to enable a determination that the proposed housing project is demographically and financially feasible and that HUD statutory and regulatory requirements have been met.

Pursuant to 24 CFR 905.606, prior to developing Public Housing, either through new construction or through acquisition (with or without rehabilitation), Public Housing authorities (PHA) must submit a Development Proposal to HUD which contains information about the project. Submission of a Development Proposal allows HUD to assess the viability and financial feasibility of a proposed project and to assure compliance with Public Housing regulations.

A Development Proposal must be submitted for all types of Public Housing development, including mixed-finance development. If a PHA does not submit a Development Proposal and secure HUD approval, the PHA may have to repay any Public Housing funds used in conjunction with the project.

The purpose of this document is to provide a template for preparation of the Development Proposal. Information may be typed directly into the form. This template may be used for all types of Public Housing development. However, it is required to be used for mixed-finance Public Housing development. This document replaces the previously used Rental Term Sheet (HUD form 50030). This document may also be modified by HUD for use with projects including development of non-Public Housing units through programs such as Choice Neighborhoods. RAD, or Moving to Work.

This document, along with its attachments, generally includes all information required to be included in a Development Proposal, though HUD reserves the right to request additional information or to require less information to carry out its review. In addition, for Mixed-finance projects, this document identifies additional documentation needed to allow HUD to complete a Subsidy Layering Analysis for the project, as required under section 102(d) of the HUD Reform Act of 1989. Note that this Subsidy Layering Analysis does not satisfy the subsidy layering requirements related to Housing Choice Vouchers.

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For non-mixed-finance Public Housing development, the Development Proposal and all attachments must be submitted to the appropriate HUD Field Office.

For mixed-finance projects or other non-Public Housing development, Development Proposals and all attachments must be submitted to HUD Headquarters, Office of Public Housing Investments. PHAs should work with their assigned HUD Project Manager to prepare the Development Proposal. Submission must be made well in advance of closing to allow adequate time for review and approval.

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Section 1: Project Information

PHA: _____

Project Name: _____

_____ (Old Name, if applicable)

PIC Project Number: _____

PHA Contact Person: _____

Phone Number: _____

Email: _____

MTW Agency? _____ Yes _____ No

RAD Conversion? _____ Yes _____ No

HOPE VI Grant Name: _____

HOPE VI Grant Number: _____

Choice Neighborhoods Grant Name: _____

Choice Neighborhoods Grant Number: _____

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Section 2: Project Description*

Provide a narrative description of the proposed project that gives an overview of the project, including the following information:

- Current project status (ownership, units, occupancy, condition, etc.)
- Proposed project status
- Development method (new construction, rehab, acquisition, etc.)
- Housing type (elevator, walk-up, row house, detached/semi-detached)
- The number of units by type (Public Housing, LIHTC, PBV, unrestricted, etc.) using Form A of the Development Proposal Calculator
- Proposed energy rating for units (energy star, LEED, local code, etc.)
- Proposed type of internet access
- Non-dwelling space type & size (community center, maintenance shed, etc.)
- Phasing plan (if this project is part of a larger, multi-phases development)
- Proposed residents to be served (families, elderly, disabled, etc.)
- Role of PHA
- Identification and description of Developer
- Description of project plans to convert assistance through a RAD conversion, if applicable
    - Selection of Program Platform: Project Based Vouchers (PBV) or Project Based Rental Assistance (PBRA) Housing Assistance Payments (HAP) contract
- Other pertinent information
- Identification of any work requirement or work preference for Public Housing residents

* Information in this Section 2 must also be included in Exhibit B of the Mixed-finance Amendment to the ACC Amendment for the project.

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Section 3: Site Information

Provide information on the development site, including the following:

- A physical description of the site
- Environmental issues
- Description of the neighborhood
- Proximity of site to retail, education, social services, transportation, jobs, etc.
- Describe any unusual features which might affect development
- Site map
- Map of the surrounding neighborhood and city
- Other pertinent information

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Section 4: Key Development Partners and Participating Parties*

Provide the following information for each major partner in the Project:

ROLE	ENTITY NAME & CONTACT INFORMATION (person, phone & email)	FINANCIAL INTEREST (%)	RELATIONSHIP TO PHA (if any)
Developer			
Ownership Entity			
General Partner or Managing Member of the Owner			
Limited Partner or Investor/Limited Member of the Owner			
Public Housing Authority, Instrumentality or Affiliate			
Property Manager			
Construction Lender			
Permanent Lender(s)			
Other			
Other			
Other			

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For RAD, documents must demonstrate how the ownership will meet RAD's Ownership and Control requirements (See Section 1.4.A.11 of the RAD Notice). Provide the following information about the Development Team:

- Identification of all participants, including the PHA, the general contractor, the legal entity that will own the project, the proposed management agent, and all "principals" of those entities. The submission must disclose any identity of interest between any of the parties.
- For PBRA conversions, evidence that all principals have Previous Participation Certification in the Active Partners Performance System (APPS) (formerly the Form 2530) and are not be debarred, suspended, or subject to a Limited Denial of Participation.[6]

If a PHA instrumentality or affiliate is involved in the project, provide a description of the relationship between the PHA and the instrumentality/affiliate as it relates to the project (see PIH Notice 2007-15):

*Information in this Section 4 must also be included in Exhibit A to the Mixed-finance Amendment to the ACC for the project.

[6] The APPS/2530 applies to all FHA transactions and transactions in which 20% of the units in the Covered Project will be covered under a PBRA contract (PBV transactions without FHA financing are exempt). The PHA and any entities wholly owned by the PHA are not subject to 2530/APPS. For LLCs and LPs, non-PHA members and partners, respectively, with 25% or more of the ownership interests are subject to approval provided that for LIHTC transactions, limited partners or investment members are exempt. For non-profit entities, 2530s are required for Board Officers but not Board Members. Management agents are subject to 2530 unless wholly-owned.

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Section 5: Project Schedule*

Provide projected dates for each activity identified below:

ACTIVITY	COMPLETION DATE
Demolition Approval from HUD	
Disposition Approval from HUD	
LIHTC Award	
Environment Review Completed (HUD-7015.16 signed)	
Relocation Completed	
Financial Closing	
Abatement/Demolition Completed	
Construction Start	
Construction Completed	
Target Date of Full Availability (DOFA) for Public Housing Units	
LIHTC Placed-in-Service Date	
Lease Up Complete	
Submission of Final Cost Certification	
Other:	
Other:	

*Information in this Section 5 must also be included in Exhibit D of the Mixed-finance Amendment to the ACC Amendment for the project.

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Section 6: Compliance with Design and Accessibility Requirements

The design of the project, including the lay-out of units, must comply with accessibility requirements specified at 24 CFR 905.312 and 905.604(g) and any other requirements which apply to the specific project.

PHAs must submit the following architectural plans:

- Site Plan
- Building Plans
- Sections and Elevations
- Unit Plans

The following information must be reflected on the plans or separately provided:

- Site Plans: show exterior private spaces, public recreational areas, location of trees to shade walks, parking areas, etc.
- Building Plans: show the location, type, and mix of accessible and visitable units
- Exterior Elevations and Building Sections: identify materials on walls and roof areas
- Unit Plans: show the livability of the spaces within the dwelling unit by providing adequate floor area for furniture and circulation spaces
- Energy efficiency/green design

Plans for Mixed-finance projects will be reviewed by a HUD architect. Before submitting plans, the PHA should consult with the HUD Project Manager to determine where the plans should be sent and in what format, i.e. hard copy, electronic, CD, etc.

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Section 7: Project Costs

Provide the following information regarding project costs and financing:

A: Project Budget*

- Provide a construction period project budget reflecting all sources and uses of funds (including grant numbers, if applicable) during project construction using Construction Budget Tab of the Development Proposal Calculator.

- Provide a permanent project budget reflecting all sources and uses of funds (including grant numbers, if applicable) following construction completion using the Permanent Budget Tab of the Development Proposal Calculator.

- Provide a construction draw schedule that shows the projected sources and uses of funds on a monthly basis throughout the construction period using the Draw Schedule Tab of the Development Proposal Calculator.

*The construction and permanent project budgets must also be included in Exhibit F of the Mixed-finance Amendment to the ACC for the project.

B. Compliance with Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits

- Projects must comply with TDC and HCC limits imposed by HUD on the development of Public Housing units, pursuant to 24 CFR 905.314. Provide a calculation of TDC and HCC limits for the project using TDC and HCC Tab of the Development Proposal Calculator.

C. Pro Rata Test

- The proportion of Public Housing funds to total project funds may not exceed the proportion of Public Housing units to the total number of units. For example: if there are 100 units and 40 are Public Housing, the amount of Public Housing funds committed to the project cannot exceed 40% of the total project budget. Note: projects which use Public Housing funds to construct non-Public Housing units may include these units in the pro rata test.

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- NOTE: the pro rata test applies only to those project costs shown in "Part A" of permanent project budget in the Development Proposal Calculator. "Part B" costs, which are generally costs incurred by the PHA, are not included.

- Provide the following information:

Type	**Number/Amount**	**Percent of Total**
Public Housing Units/Approved Non-PH units		
Non-Public Housing Units		
Total Housing Units		**100%**
Public Housing Funds		
Non-Public Housing Funds		
Total Funds		**100%**

D. Construction Cost Estimate

- Submit an independent construction cost estimate (cover letter and summary page showing costs broken down by major trades) or the actual construction contract which supports the permanent and construction budgets provided above.

E. Limitation on the Cost of New Construction

- A PHA may not construct new Public Housing unless the cost of construction is less than the cost of acquiring existing units (with or without rehab.)

- For projects involving new construction, provide the following:

1) Documentation which shows the construction cost of the new project is less than the cost to acquire (and rehab as necessary) similar units in the same neighborhood that would serve the same purpose as the new housing; or,

2) Documentation which shows there is insufficient housing in the neighborhood to acquire that would serve the same purpose as the new housing.

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F. Predevelopment Costs

- Pursuant to 24 CFR 905.612(a)(2), use of Public Housing funds for predevelopment expenses related to mixed-finance projects must be approved by HUD prior to expenditure. PHAs should submit requests to HUD prior to expenditure of funds for predevelopment activities.

- The percentage of predevelopment costs borne by the PHA should be in compliance with HUD's "Cost Control and Safe Harbor Standards for Mixed-finance Development (April 2003) (Safe Harbor Standards)." Provide the following Information:

  Total Predevelopment Costs: $_____

  Amount paid by the PHA: $_____ _____%

  Amount paid by the Developer: $_____ _____%

- Provide a justification if the Safe Harbor Standard is exceeded:

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Section 8: Project Financing*

A. Project Financing

- Provide a separate description for each source of financing, i.e., Public Housing, other public, and private (construction and permanent) included in the project budget. In the description, include the following:

  1) Name of the provider
  2) Amount
  3) Use of funds
  4) Grant number (if Capital Funds, RHF, HOPE VI, Choice, etc.)
  4) Type of financing (grant, permanent loan, construction loan, second mortgage, etc.)
  6) Terms of the financing, such as: length of the loan, interest rate, debt service payments, deferred amounts debt coverage ratio, other lender requirements
  7) Other relevant information

- NOTE: Construction loans made by housing authorities or grantees with federal funds may not earn interest.

B. Federal Low Income Housing Tax Credits (LIHTC)

- For projects that include LIHTC, provide the following information:

Total Tax Credit Allocation	$					
Total Equity Commitment	$					
Equity Per Dollar of Allocation (Equity divided by Allocation)	$					
Type of Tax Credits	9%			4%		

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Pay in Schedule for Investor Equity		
Milestone	**Projected Date**	**Amount**
TOTAL AMOUNT OF EQUITY		$

- Describe the proposed exit strategy for the Investor at the end of the 15 year LIHTC compliance period, including the role of the PHA, continued preservation of affordable units, and how any exit taxes will be paid.

C. Other Tax Credits

- For projects that include other types of tax credits, such as state LIHTC, federal and state historic preservation, new market, etc. provide the following:

Type of Tax Credit	Amount of Equity

D. Existing Financing

Identify any existing financing, such as funds through a Capital Fund Financing Program (CFFP) transaction or an Energy Performance Contract (EPC).

- Identify the amount of funding.
- Describe how the debt will be addressed as part of the new project.
- Provide evidence of approval

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E. Reserve Accounts

Public Housing funds may be contributed towards reserve accounts, subject to the following limitations:

- Public Housing funds may not be used to initially fund reserve accounts, with the exception of establishment of an Initial Operating Subsidy Reserve for Public Housing units only.
- Public Housing Operating Subsidy and Public Housing tenant rents may be used to replenish reserve accounts, but only to replace funds which have been disbursed for allowable Public Housing expenses.
- Public Housing Operating Subsidy and Public Housing tenant rents may be used to fund the Replacement Reserve, but only in an amount proportionate to the number of Public Housing units.
- Public Housing funds may not be used to fund an Exit Tax Reserve.
- Public Housing funds in all reserve accounts must be tracked separately
- Public Housing funds in all reserve accounts must remain with the project if sold/ transferred or returned to the PHA.
- Reserve accounts must be described in detail in the Regulatory and Operating Agreement between the PHA and the Owner Entity.

Submit the following information for each Reserve Account included in the project:

1) Initial Operating Period/Lease-Up Reserve (Public Housing only): $_____

Identify source of funds to establish reserve account	
Identify source of funds to replenish reserve account	
Briefly describe when funds may be drawn down	
What entity owns the reserve account	

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2) Operating Subsidy Reserve (Public Housing only): $_____

Identify source of funds to establish reserve account	
Identify source of funds to replenish reserve account	
Briefly describe when funds may be drawn down	
What entity owns the reserve account	

3) Operating Deficit Reserve: $_____

What type of units does this cover (all, only PH, only non-PH, etc.)	
Identify source of funds to establish the reserve account	
Identify source of funds to replenish reserve account	
Briefly describe when funds can be drawn down	
What entity owns the reserve account	

4) Replacement Reserve: $_____ per unit per month

What type of units does this cover (all, only-PH, only non-PH, etc.)?	
Identify source of funds to establish reserve account	
Identify source of funds to replenish reserve account	
Briefly describe when funds can be drawn down	
What entity owns the reserve account	

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For RAD, the annual deposit to the replacement reserve must be based on a financial model (the 20-year capital needs schedule and associated determination of the Initial Deposit to Replacement Reserve, or IDRR, and the Annual Deposit to Replacement Reserve, or ADRR). However, if the MFDP entails new construction or the use of 9% LIHTC, no financial model is needed as long as the annual deposit to the replacement reserve is at least $450 per unit per year ($37.50 per unit per month).

5) Other: Identify other reserve accounts and provide the above information for each.

*Information in this Section 8 must also be included in Exhibit B to the Mixed-finance Amendment to the ACC for the project.

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Section 9: Project Fees

The HUD Cost Control and Safe Harbor Standards provide guidance for certain fees and costs related to development. Projects must comply with these Safe Harbor Standards or provide justification for non-compliance. In addition, Choice Neighborhoods projects which include Project Based Vouchers or Project Based Rental Assistance must comply with the "Cost Control and Safe Harbor Standards for Section 8 Projects under Choice Neighborhoods Program, dated November 2015."

A. Calculation and Pay Out of Developer Fee

- The amount of the Developer Fee must be in accordance with the Safe Harbor Standards. Complete the Fees Tab 6 of the Development Proposal Calculator to accurately calculate the Developer Fee.

- Total Amount of Developer Fee: $_____ = _____% of project costs

- Amount of Fee Paid to Developer: $_____ = _____ % of project costs

- Amount of Fee Paid to PHA: $_____ = _____% of project costs

- If the Developer Fee exceeds the Safe Harbor Standards, provide a justification, based on the criteria in the Safe Harbor Standards.

- What is the pay-out schedule for the Developer Fee? Identify the milestone, such as closing or 50% construction completion, and the percent of the fee to be paid at each milestone.

Milestone	% of Developer Fee Paid

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- If the Developer Fee pay-out schedule exceeds the Safe Harbor Standards, provide a justification.

  Justification:

- If the PHA is providing a loan to the developer to cover developer overhead prior to financial closing, provide a description and justification. HUD approval is required prior to payment of any part of the developer fee.

  Description and Justification:

- Is the developer receiving any compensation separate from the Developer Fee, i.e., master planning, relocation, demolition, etc.? If so, identify below:

TASK	COMPENSATION

B. Contractor Fees

- The fee paid to the construction contractor must be in accordance with the Safe Harbor Standards. Complete the form in Tab 7 of the Development Proposal Calculator to accurately calculate the Contractor Fee.

Contractor Fee	Amount	% of Hard Construction Costs
Profit		
Overhead		
General Conditions + Performance Bond		
TOTAL		

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- It the total amount of the Contractor Fee exceeds the Safe Harbor Standards, provide a justification.

  Justification:

- Provide a written explanation of how construction savings (if any) will be allocated among the development parties. NOTE: per the Safe Harbor Standards, developers can only receive an amount equal to an additional 1% developer fee, with a maximum of a 12% fee.

  Explanation:

C. Identity of Interest

- If there is an identity of interest between the Developer and the contractor/builder, i.e., a financial relationship between the two parties, the Developer may award the construction contract to the related contractor/builder only if it has met one of the following requirements prior to HUD approval of the Development Proposal. Check the appropriate box and attach the required information:

  _____ 24 CFR 905.604(i)(1): there has been a bidding procedure and the related contractor's bid was the lowest bid received. Provide documentation on the bidding process and bids received.

  24 CFR 905.604(i)(2): there is an independent third party cost estimate that shows the related contractor's price to be at or below the cost estimate. Provide a copy of the cost estimate and the related contractor's cost or construction contract.

C. Property Management Fees

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- The fee paid to the Property Manager must be in accordance with the Safe Harbor Standards and must be described fully in the Management Agreement, which will be reviewed by HUD as part of its review of evidentiary materials.

- Identify the Property Manager: _____

- Is the Property Manager a:
  - ____ PHA
  - ____ PHA Instrumentality/Affiliate
  - ____ Private Company
  - ____ Private Company but affiliated with the Developer/Owner
  - ____ PHA/Private Joint Venture
  - ____ Other (explain) _____

- Describe how the Property Management Fee will be calculated:

  Description:

- If the Property Management Fee exceeds the Safe Harbor Standards, provide a justification.

  Justification:

- Identify any additional fees paid to the Property Manager. Indicate the amount or the fee and/or how the fee is calculated or earned.

Fee Description	Fee Amount/Calculation

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D. Fees or Income Paid to the PHA*

- Payments received by the PHA, such as developer fees or loan repayments, are generally referred to as program income. The PHA's use of program income is often restricted, depending upon the source of Public Housing funds contributed to the project.

- Identify any fees or income to be paid to the PHA or its instrumentality/affiliate and the proposed use of the funds:

Source of Income	Amount	Use
Developer Fee		
Loan Repayment (if fixed)		
Bridge Loan Interest		
Other:		
Other:		
Other:		

*Information included in Paragraph D of Section 9 will also be included in Exhibit H of the Mixed-finance Amendment to the ACC for the project.

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Section 10: Operating Pro Forma

To allow HUD to review the financial feasibility of the project, provide the following:

A) Provide a 15 year operating pro forma, including assumptions, using the pro forma included in the Development Proposal Calculator.

- Show all income and expenses, debt service, and distribution of cash flow (cash flow waterfall) on the pro forma.

For the Public Housing units, show, below, how the amount of Public Housing operating subsidy shown on the pro forma was calculated. Identify the projected PEL, UEL, add-ons, tenant rents, pro-ration, etc. Include assumptions made. Discuss on what information you based your numbers and assumptions.

- For RAD, the revenue for the Public Housing units must be based on the RAD Notice of Anticipated RAD Rents.

  Methodology Discussion:

- Will all of the Operating Subsidy received by the PHA from HUD be transferred to the Owner Entity? If not, describe how the amount transferred to the Owner Entity will be determined, e.g., a percent of the subsidy, the actual gap between income and expenses, a negotiated amount, etc.
  NOTE: This is not applicable for RAD conversions.

  Description:

- Note: Detailed information regarding payment of Operating Subsidy should be contained in the Regulatory and Operating Agreement and will be reviewed by HUD as part of its review of evidentiary documents.

B) Indicate, below, the waterfall or order of distribution of Net Operating Income, identifying all payments for debt service, fees, reserves, loans and excess cash flow.

Distribution:

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Section 11: Local Cooperation Agreement

Attach the following to the Development Proposal:

- A copy of the Cooperation Agreement with the local jurisdiction covering the Public Housing units OR

- For mixed-finance projects only, if Public Housing units are to be subjected to local real estate taxes, provide documentation/certification from an authorized official of the local jurisdiction that the project is consistent with the jurisdiction's Comprehensive Plan (previously known as a comprehensive housing affordability strategy.)

- For RAD, where the PHA indicates continuation of a Payment In Lieu of Taxes (PILOT), provide a legal opinion based upon state and local law of continuation of PILOT post conversion to a Section 8 contract. If the PILOT will not be continued after conversion, the PHA must provide documentation of real estate tax estimates.

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Section 12: Environmental Review Process and Documentation

This project is subject to the environmental regulations found at 24 CFR part 58 or, if approved by HUD, 24 CFR part 50. The PHA must comply with all environmental review requirements, as required, including 24 CFR 905.602(f), prior to approval of the Development Proposal.

- Provide a brief narrative on the status of the environmental review process:

  Status:

- Provide a brief narrative on the status of the "Section 106" (historic preservation) review process.

  Status:

For RAD, if the property is converting to PBRA, the PHA may either a) request a Part 50 review or b) have a Responsible Entity perform a review under Part 58 for the purposes of the MFDP and subsequently re-use the reports in a submission of a streamlined Part 50 Review under RAD.

Upon completion of the environmental review process, provide the following documentation:

- Form HUD-4128, Environmental Assessment and Compliance Findings for Related Laws (part 50)
- Form HUD-7015.15, Request for Release of Funds and Certification (part 58 only)
- Form HUD-7015.16, Authority to Use Grant Funds (part 58 only)

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Section 13: Market Analysis

For mixed-finance projects which include the development of non-Public Housing units, provide the following, which should support the proposed development of non-Public Housing units:

- Attach the Executive Summary of the market analysis for the project.

For RAD, no market analysis is needed if all units in the project will be fully assisted under Section 8.

Section 14: Other Requirements

As applicable, provide the following information:

A) PHA Annual Plan/MTW Plan & Capital Fund Action Plan or MTW Plan: The project must be included in the PHA's Annual Plan or MTW Plan and the Capital Fund Program 5-Year Action Plan. Discuss the status of the plan approval processes.

NOTE: For RAD, the conversion must be included as a significant amendment to the Annual Plan/MTW Plan and approved by the HUD Field Office, unless included in the original Plan. A copy of the HUD Field Office approval letter must be submitted prior to closing. In addition, for Initial MTW PHAs, an approved RAD amendment to Attachment A of the MTW Agreement may also be required.

Status:

B) Faircloth Limits: Development of the project cannot result in an increase in the number of Public Housing units owned, assisted or operated by the PHA on October 1, 1999, as required by 24 CFR 905.602((b). Provide the following:

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# Public Housing units Oct 1, 1999	
# Public Housing units (in PIC) today	
# net new Public Housing units created by project	
TOTAL Public Housing units after project completion	

C) Site and Neighborhood Standards: The project must be reviewed and approved by the HUD Field Office for compliance with Site and Neighborhood Standards, including those contained in 24 CFR 905.602(d), prior to approval of the Development Proposal. Provide a brief status of this approval process.

NOTE: Site and Neighborhood Standards do not apply to HOPE VI and Choice Neighborhoods projects. Project must comply with provisions of the Grant Agreement.

Status:

D) Relocation: Relocation activities, if any, must meet the requirements of 24 CFR 905.308(b)(9) or as provided in a HOPE VI or Choice Grant Agreement. Provide a brief status of relocation activities.

Status:

E) Resident Consultation: The PHA must have consulted with affected Public Housing residents prior to submission of the Development Proposal to solicit resident input into development of the project, as required by 905.600(c)(2) or as provided in a HOPE VI or Choice Neighborhoods Grant Agreement. Provide a brief description of how residents were consulted.

Description:

F) Acquisition of New Units: If the project involves acquisition of units that are less than 2 years old, the project may not have been constructed with the intention of selling it to the PHA unless all applicable Federal requirements were met, as required by 24 CFR 905.600(b)(3). If applicable, provide a brief discussion of compliance with this provision.

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Discussion:

G) Vouchers: If the project includes Project-Based Housing Choice Vouchers (PBV), the PHA must receive separate approval of the vouchers from the HUD Field Office prior to approval of the Development Proposal, including a separate subsidy layering review. If applicable, provide a brief status of the PBV approval process.

Status:

H) Designated Housing: If the project includes Designated Housing, the PHA must include the project in its Designated Housing Plan, which must have been approved by HUD prior to approval of the Development Proposal. If applicable, provide a brief status on approval of the Designated Housing Plan.

NOTE: This is not applicable in RAD conversions. Section 8 properties cannot be designated.

Status:

I) Demolition/Disposition: If the project includes demolition of existing Public Housing units and/or disposition (sale or lease) of Public Housing property, a separate approval must be received from the HUD Special Applications Center. If applicable, provide a brief status on the receipt of these approvals.

NOTE: HOPE VI and Choice Neighborhoods projects follow program specific guidance.

Status:

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Section 15: Submission and Approval of Draft Evidentiary Documents for Mixed-finance Projects

For mixed-finance projects only, the following documents must be submitted in draft form to HUD for review and approval prior to HUD approval of the Development Proposal and prior to execution of the evidentiary documents, unless otherwise approved by HUD. Note: submission of these documents may be made separately after submission of the other elements of the Development Proposal.

A) Mixed-finance Amendment to the ACC (HUD Model Document)

B) HUD Declaration of Restrictive Covenants and Partial Release of the existing Declaration of Trust, if applicable (HUD Model Document)

C) Regulatory and Operating Agreement between the PHA and the owner entity

D) Ground Lease and Memorandum of Ground Lease between the PHA and the owner entity

E) Legal Opinion from PHA counsel (HUD Model Document)

F) Updated Development Proposal and Development Proposal Calculator, reflecting any changes in the project since the original submission

G) HUD Certifications and Assurances (form HUD-50161)

H) Title Policy (pro forma submitted prior to closing and final policy submitted after closing showing HUD Declaration of Restrictive Covenant recorded in the order approved by HUD (reviewed by the HUD Field Office)

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I) ALTA Survey (reviewed by the HUD Field Office)

J) Management Plan, Management Agreement, and sample Tenant Lease (reviewed by the HUD Field Office)

K) Other documents as may be required by HUD

Upon completion of HUD's review of the Development Proposal and the draft evidentiary documents listed above, HUD will issue a letter to the PHA which will approve the Development Proposal and the draft evidentiary documents and authorize the PHA to proceed with financial closing. However, no Public Housing funds may be expended by the PHA until the final, executed evidentiary documents have been submitted to and approved by HUD

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Section 16: Submission and Approval of Final Evidentiary Documents for Mixed-finance Projects

For Mixed-finance projects only, after financial closing, the PHA must submit the following information to HUD for approval:

A) a compact disc (CD) or other electronic medium approved by HUD containing copies of all executed and recorded evidentiary documents previously submitted and approved by HUD in draft form. Each document should be copied to the CD or other electronic medium as a discrete file. All documents must be indexed to allow for uncomplicated retrieval;

B) the required HUD opinion of counsel (HUD Model Document);

C) a certification from PHA counsel attesting that no significant changes have been made to the evidentiary documents previously submitted to and approved by HUD in draft form, or if changes have been made, a list of all changes, and;

D) the final title insurance policy that reflects the recordation of all liens, mortgages and encumbrances against the property in the order approved by HUD.

HUD will issue a final letter to the PHA which approves the executed evidentiary documents and authorizes expenditure of the Public Housing funds committed to the project.

Section 17: Cost Certification

Within one year of project completion, the PHA must submit to the Field Office the Actual Development Cost Certificate (Form HUD-52427) or Development Cost Budget/Cost Statement (HUD -52484) or another form or format as specified by the Field Office.

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MIXED-FINANCE DEVELOPMENT PROPOSAL When RAD Conversion is Contemplated

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

OMB Approval No. 2577-0275

(exp. 04/30/2022)

Section 18: Attachments & Additional Submissions to the Development Proposal