

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HOUSING**

PROJECT-BASED SECTION 8 HOUSING ASSISTANCE PAYMENTS

Addendum to RENEWAL CONTRACT for Capital Repairs

MARK-UP-TO-BUDGET

Scope of Addendum: This Addendum, including the exhibits, whether attached or incorporated by reference, comprises the entire agreement between the Owner and HUD with respect to the matters contained in it. Neither party is bound by any representations or agreements of any kind except as contained in this Addendum, any applicable regulations, and agreements entered into in writing by the parties, which are consistent with this Addendum. Nothing contained in this Addendum shall create or affect any relationship between HUD and the lender or any contractors or subcontractors employed by the Owner in the completion of the project.

The HAP Contract as amended by this Addendum includes the following Exhibits:

Exhibit A1: Identification of Units (Contract Units) by Size and Applicable Contract Rents;

Exhibit A2: Identification of Units (Contract Units) by Size and Applicable Contract Rents after Capital Repairs;

Exhibit C: Federal Labor Standards Provisions - HUD Form 4010 (For projects with 9 or more units.)

Exhibit D: Certifications for Contracts, Grants, Loans and Cooperative Agreements

Additional Exhibits: (Specify any additional Exhibits if applicable)

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A1. Initial Rents. Except as otherwise provided herein, Contract Rents shall be as provided in *Exhibit A* attached hereto.

A2. Rents after Capital Repairs . HUD and the Owner agree that the Owner may make capital repairs to the Project's dwelling units. The Owner and HUD agree that, until the acceptance by HUD of completion of the repairs of the project and cost certification, the Contract Rents shall continue to be those rents provided for in *Exhibit A*. If HUD determines after review and inspection to accept the capital repairs, the Contract Rents by unit size and the amounts of housing assistance payments shall be as provided for in *Exhibit B*. Thereafter, all subsequent adjustments to Contract Rents shall be determined in accordance with section 6 of the Renewal Contract and Section 524(c) of MAHRA.

A3. Scope of Work and Significant Dates. The Owner hereby agrees and certifies that the capital repairs are permissible under the applicable State or local zoning and housing codes, ordinances or regulations as modified by any waivers obtained from the appropriate officials. The Owner further agrees to repair and substantially rehabilitate the project to meet all applicable local standards, including as applicable the following:

- State and local building codes, ordinances and regulations;
- Standards set forth in the Project Capital Needs Assessment;
- Economic Opportunities at 24 CFR Part 135
- Handicapped Accessibility Guidelines at 24 CFR Part 41;
- Section 504 of the Rehabilitation Act of 1973;
- Smoke Detector Requirements at 24 CFR 882.109(r);
- Lead-Based Paint Requirements at 24 CFR Part 35;

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- Equal Employment Opportunity Regulations (for contracts in excess of \$10,000) at 41 CFR Chapter 60;
- Any environmental conditions that were prepared for this rehabilitation pursuant to regulations at 24 CFR Part 50 and 51; and
- The relocation plan or statement prepared pursuant to any HUD requirements or the Uniform Acquisition Policies Act of 1970.

A4. Date for Commencement of Work. The date for commencement of work is not later than _____ calendar days after the effective date of this Contract.

A5. Time for Completion of Work. The date for completion of the work is not later than _____ calendar days after the date for commencement.

A6. Wage Claims and Adjustments. If the project has 9 or more units, the Owner shall be responsible for the correction of all violations, as applicable, under the Fair Labor Standards attached hereto, including violations committed by other contractors. In cases where there is evidence of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the Owner or other contractor or a failure by the Owner or other contractor to submit payrolls and related reports:

- a. The Owner shall be required to place an amount in escrow, as determined by HUD, sufficient to pay persons employed on the work covered by the Contract the difference between the salaries or wages actually paid such employees for the total number of hours worked and the full amount of wages required under this Contract, as well as an amount determined by

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HUD to be sufficient to satisfy any liability of the Owner of other contractor for liquidated damages pursuant to such Fair Labor Standards. HUD may disburse the amounts withheld for and on account of the Owner or other contractor to the respective employees to whom they are due, and to the Federal Government in satisfaction of liquidated damages under the Fair Labor Standards. and

- b. The escrow required by paragraph (a) shall be paid to HUD, as escrowee, or to an escrowee designated by HUD, and the conditions and manner of releasing such escrows shall be designated and approved by HUD.

A7. Flood Insurance. If the project is located in an area that has been identified by the Federal Emergency Management Agency as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Program, the Owner agrees that (1) the project will be covered, during the life of the property, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less; and (2) that it will advise any prospective purchaser or transferee of the property in writing of the continuing statutory requirement to maintain such flood insurance during the life of the property.

A8. Review and Inspection. The Owner or an architect employed or engaged by the Owner must inspect the capital repairs for acceptable completion.

- a. The inspection must be sufficient to enable the inspector to report that he/she has inspected the observable elements and features of the repair

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work (both assisted and unassisted units) in accordance with professional standards of care and judgment and that, on the basis of the inspection, the repair work has been completed in accordance with this Addendum and that there were no observable conditions inconsistent with the evidence of completion. The results of the inspection must be evidenced by a written report. HUD may perform an inspection of its own prior to accepting the capital repair work.

- b. FHA-insured project - In the case of HUD-insured projects, the provisions of the otherwise applicable mortgage insurance program in place at the time repairs commence shall also apply. In the event of a conflict between this contract and the applicable mortgage insurance program provisions, the mortgage insurance provisions shall govern.

A9. Capital Repair Completion. If, after review and inspection, HUD determines that the repair work has been completed according to this Addendum HUD may accept the repairs.

- a. The Owner will notify HUD of completion by submitting to HUD:
 - i. A certificate of occupancy and/or other local approvals necessary for occupancy; and
 - ii. A certification by the owner or inspecting architect that there are no defects or deficiencies in the work except for ordinary punch list items or items of delayed completion which are minor in nature or which are incomplete because of weather conditions and which do

not preclude or affect occupancy. The Owner agrees that its notification of the completion of work is a certification as to compliance with those requirements under paragraph A3 herein.

- b.** If HUD determines that the repairs can be accepted, the Owner will be notified in writing of this decision. If there are punch list items or items of delayed completion awaiting seasonal opportunity which do not preclude or affect occupancy and all other requirements of this Addendum have been met the project may be accepted, in which case an escrow will be required, along with a written agreement between the Owner and HUD specifying a schedule for completion.
- c.** If other defects or deficiencies exist, HUD will determine whether, and to what extent, the defects or deficiencies are correctable, what corrective actions are necessary to permit acceptance of the repairs and whether and to what extent Contract Rents should be reduced as a condition of acceptance. If the owner is unwilling to correct such defects or deficiencies, HUD need not accept the repairs.
- d.** If HUD determines that the repairs cannot be accepted, the Owner will be notified in writing of this decision and the reason thereof.
- e.** In the case of HUD-insured projects, the provisions of the otherwise applicable mortgage insurance program in place at the time repairs commence shall also apply. In the event of a conflict between this Addendum and the applicable mortgage insurance program provisions, the mortgage insurance provisions shall govern.

A10. Cost Certification. The Owner will, upon completion of the rehabilitation work, submit to HUD an Owner's certification of actual costs prepared by a certified public accountant and a certification that the costs support an increase in Contract Rents. The form used for the cost certification is Form HUD –2330, Mortgagor's Certificate of Actual Cost. After HUD determines that the work can be accepted HUD will determine in accordance with applicable requirements whether, and the extent to which, the certified costs support an increase in Contract Rents.