

Attachment A-1

(Rider to HAP Contract executed at Entry to Mark-to-Market in case where PHA is administering the Renewal Contract.)

RIDER TO HOUSING ASSISTANCE PAYMENTS
RENEWAL CONTRACT

THIS RIDER is attached to and made part of the Housing Assistance Payments Renewal Contract dated _____, _____, between _____ (owner) and _____ (PHA).

Participation in Mark-to-Market Program. In connection with the Owner's [[if third-party purchaser, add: and the Purchaser's]] participation in the Mark-to-Market Program, as authorized by the Multifamily Assisted Housing Reform and Affordability Act of 1997, title V of Pub. L. 105-65 (approved October 27, 1997), 42 U.S.C. 1437f note ("MAHRA") and described in the Multifamily Housing Mortgage and Housing Assistance Restructuring Program and Renewal of Expiring Section 8 Project-Based Assistance Contracts; Interim Rule, 63 Fed. Reg. 48926 (1998) (to be codified at 24 C.F.R. pts. 401 and 402) (September 11, 1998) [[after publication of Final Rule, amend reference]], the parties hereto agree, among other things, to diligently negotiate in good faith the terms of a Restructuring Commitment (defined in Section 401.404 of the Interim Rule) relating to the Project.

Restructuring Commitment. The Restructuring Commitment shall set forth the principal terms and conditions under which the Owner [[if third-party purchaser, add: and the Purchaser]] {is/are} contractually obligated to participate in the Mark-to-Market Program. The Owner [[if third-party purchaser, add: and the Purchaser]] hereby {agrees/agree} to proceed in good faith and in a diligent manner to enter into a Restructuring Commitment with HUD and to consummate closing under the Restructuring Commitment within one year from the date hereof. In connection with such obligation, the Owner [[if third-party purchaser, add: and the Purchaser]] shall be required to, among other things: (A) promptly submit to {insert PAE's name} (the "PAE") (and its contractors and agents), all documents and information that may be requested by or on behalf of HUD relating to the Owner [[if third-party purchaser, add:, the Purchaser]] and/or the Project (or, to the extent any such documents or information are not in the Owner's [[if third-party purchaser, add: or the Purchaser's]] possession or control, the Owner {and Purchaser} hereby {certifies/certify} that the Owner [[if third-party purchaser, add: and the Purchaser]] will undertake all reasonable efforts to obtain such documents and deliver them to the PAE within ten (10) calendar days of the date of this Agreement); (B) promptly provide the PAE (and its contractors and agents) with access to

the Project; (C) attend such meetings as the PAE (and its contractors and agents) may deem reasonably necessary in connection with the Owner's [[if third-party purchaser, add: and the Purchaser's]] participation in the Mark-to-Market Program; and (D) undertake all reasonable efforts to obtain third-party financing if refinancing of the first mortgage is found necessary under Section CFR 401.460(e).

Owner ~~[[/Purchaser]] Representations and Warranties.~~ The Owner [[if third-party purchaser, add: and the Purchaser each]] hereby represents and warrants that as of the date hereof:

(A) the Owner, in full compliance with the requirements of Section 514(b) of MAHRA and Section 401.500 of the Interim Rule [[after publication of Final Rule, amend reference]], has provided the requisite written notice of the Owner's [[if third-party purchaser, add: and the Purchaser's]] intention to participate in the Mark-to-Market Program to: (i) the tenants residing in the Project; (ii) the chief official of the Affected Unit of Local Government having jurisdiction over the Project; and (iii) the current mortgagee on the Project's Loan(s);

(B) the Owner [[if third-party purchaser, add: and the Purchaser]] shall undertake all reasonable efforts to obtain any and all consents of third parties (e.g., the current mortgagee on the Project's Loan(s), the Owner's [[and the Purchaser's]] partners/investors) that may be required in order to enable the Owner [[and the Purchaser]] to execute a Restructuring Commitment and perform the related obligations in accordance with the Mark-to-Market Programs requirements;

(C) neither the Owner [[if third-party purchaser, add: ,the Purchaser]], nor any of {its/their} principals or affiliates is subject to, or received any notice of, any debarment, suspension or other administrative proceeding or investigation initiated by HUD, or any other federal or state government agency, with respect to such party or the Project;

(D) neither the Owner [[if third-party purchaser, add: ,the Purchaser]], nor any of {its/their} principals or affiliates has engaged in any material adverse actions or omissions with regard to the Project, or with regard to any other project(s) subject to a HUD-held or HUD-insured loan and/or receiving HUD assistance, which causes, or may cause, the Owner [[,the Purchaser]], and/or such principals or affiliates to be in default (monetary or technical) under, or in violation of, any HUD regulatory agreement, Section 8 Housing Assistance Payments Contract or other applicable HUD requirements; and

(E) except as identified on _____, the Owner [[if third-party purchaser, add: and the Purchaser]] {has/have} not received any notice from HUD {{if Section 8 Contract Administrator, add:, the Section 8 Contract Administrator}} or any other governmental authority that any unit(s) within the Project fail to comply with HUD's Section 8 Uniform Physical Condition Standards and/or local housing codes.

Upon the request of HUD, the Owner [[if third-party purchaser, add: and the Purchaser]] shall provide HUD with evidence satisfactory to HUD relating to each of the foregoing certifications.

Term of Contract.

(A) This Contract expires on the earlier to occur of [[insert date twelve (12) months from the effective date of the initial Contract executed pursuant to Section 514c of MAHRA]] or the date of closing under the Restructuring Commitment.

(B) If closing has not occurred within twelve months from the effective date of the initial contract executed pursuant to Section 514c HUD (either directly or through a Section 8 Contract Administrator) shall offer to renew or extend this Contract, subject to the availability of appropriated funds, but the Contract Rents will be reduced to comparable market rents or exception rents, as applicable.

(C) Upon closing, HUD (either directly or through a Section 8 Contract Administrator) and the owner shall enter into a new Housing Assistance Payments Renewal Contract which is consistent with the terms and conditions specified in the Restructuring Commitment.

Tenant Protection. The owner shall comply with section 514(d) of MAHRA, as amended [[when Rule has been published, add: and Section 401.602 of the Final Rule]].

Breach. If HUD (or the PAE) determines, in its sole discretion, that the Owner [[if third-party purchaser, add: and/or the Purchaser]] has defaulted under any one or more of the terms or conditions of this Contract, or that the Owner [[and/or the Purchaser]] has breached any of {its/their} representations or warranties contained in this Contract, or the Owner drops out of the Mark-to-Market Program, or if HUD (or the PAE) determines, in its sole discretion, that the Owner is not negotiating in good faith, HUD (or the PAE) may, in addition to pursuing any other remedies available at law or in equity, cease the development of

a Restructuring Plan. If this occurs, Contract Rents will immediately be reduced to comparable market rents and this Contract shall continue (and may be renewed or extended, subject to appropriations) for the duration of the notice period required by section 514(d) of MAHRA, as amended [[when Final Rule has been published, add: and Section 401.602 of the Final Rule.]]

Compliance With HUD's Uniform Physical Condition Standards/Local Housing Codes. The Owner [[if Purchaser shall acquire title prior to the closing date, add: and the Purchaser]] hereby {agrees/agree} that [[if Project is currently in compliance with HUD's Uniform Physical Condition Standards and local codes, add:, from the date hereof through the closing date, the Project shall remain in full compliance with HUD's uniform physical condition standards or local codes, whichever are more stringent.]] [[if Project is not currently in compliance with HUD's Uniform Physical Condition Standards and local codes, add: on or before _____, the Owner [and/or the Purchaser] shall provide HUD with a detailed plan to correct any existing violations of HUD's Uniform Physical Condition Standards and/or local housing codes, whichever are more stringent, which plan is satisfactory to HUD.]]

Further Action. The Owner [[if third-party purchaser, add: and the Purchaser]] shall promptly execute and deliver all documents, provide all information and take or forbear from all such action as may be reasonably required by HUD or the PAE, as applicable, in order to achieve the purposes of this Agreement.

United States of America
Secretary of Housing and
Urban Development

Owner

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____