[PRAC Owner Entity Name

and Address]

SUBJECT: Project Name: [PRAC Original Project Name]

Capital Advance Project #: [Capital Advance Number]
PRAC Contract #: [Contract Number]
Location: [PRAC Original Site Address, State and Zip]

Dear [Contact Name]:

This letter serves as a conditional approval of your request to convert a Section 202 Project Rental Assistance Contract (PRAC) providing rental assistance for [original number of PRAC units] units at the subject project to a [Project Based Rental Assistance (PBRA)] Housing Assistance Payments (HAP) contract under the Rental Assistance Demonstration (RAD). The Department has reviewed your request in accordance with the Rental Assistance Demonstration – Final Implementation, Revision 4 Notice, H-2019-09 PIH-2019-23 (HA), issued September 5, 2019. Based on this review and in reliance on the accuracy of the materials you have submitted, HUD has made a preliminary determination that your request meets the applicable RAD requirements. However, final approval and authority to implement the conversion is conditioned on the requirements set forth in this letter and on HUD’s final determination that all RAD requirements have been met to HUD’s satisfaction. In the event of a RAD conversion, the project will receive rental assistance in the form of a 20-year [PBRA] HAP contract, administered by HUD, providing rental assistance for up to [post-conversion number of PBRA units].

Attached to this conditional approval is a draft of the RAD Section 202 PRAC Conversion Agreement for informational purposes only. The Conversion Agreement contains the terms approved by HUD based on your Conversion Plan submission, the approved sources and uses of funds, construction commitments, required representations, warranties and program certifications, and other terms associated with the RAD conversion. Also attached to this conditional approval is the HAP Term Sheet which will be used to populate the HAP Contract when it is executed at Closing. These documents include many transaction-specific terms and facts on which this conditional approval relies.

You must notify HUD in writing of any proposed factual corrections to the Conversion Agreement or the HAP Term Sheet which, if approved, will be incorporated into the final version of these documents. The final versions of the Conversion Agreement and the complete HAP Contract will be issued by HUD for execution by the relevant parties at Closing. Neither the Conversion Agreement nor any other agreement shall be effective or enforceable against HUD until all conditions stated herein have been satisfied in HUD’s determination.

Prior to final approval of the proposed conversion, the following conditions must be satisfied:

1. Completion of all required Pre-Closing Repairs which are identified in an attachment to this conditional approval;
2. Satisfaction of the following Special Conditions listed in this paragraph 2:
	1. [If none, state “None” here, otherwise, list special conditions]
3. Production and submission for HUD review of the following due diligence documents (“Due Diligence Documents”) which Due Diligence Documents must be acceptable to HUD:
	1. A contact list of parties involved in the closing;
	2. The proposed legal description for the property;
	3. Survey or Site Plan;
	4. Title Report;
	5. Copies of all existing title encumbrances and title exception documents;
	6. Title Pro Forma representing the anticipated title insurance policy;
	7. UCC Search if any releases of UCC-1s will be requested;
	8. Copies of any other Section 202 capital advance documents proposed to be terminated or released by HUD;
	9. The draft deed or ground lease and, if applicable, memorandum of ground lease;
	10. Draft financing documents for all debt to appear as a lien on the property post-Closing, including the note, the mortgage or deed of trust, and any intercreditor or subordination agreements;
	11. A draft note for any unsecured surplus cash notes, including, without limitation, for any identity of interest obligation to be repaid through the Closing or to exist post-Closing;
	12. Executed or draft ownership entity documents if requested by HUD;
	13. If a new owner entity or management agent is proposed, owner/management agent entity profiles, owner/management agent certifications, and evidence of owner’s/management agent’s fidelity bond coverage, as applicable, to satisfy HUD asset management requirements;
	14. An Affirmative Fair Housing Marketing Plan;
	15. The form of tenant lease;
	16. The property house rules; and
	17. Such additional documents required by HUD to determine whether criteria for Closing have been met.
4. Review and approval of the Due Diligence Documents by HUD counsel and approval by HUD counsel of the ownership and control of the Covered Project, including confirmation that the ownership and control structure meets the applicable RAD requirements.
5. Execution of such agreements, instruments, certificates and other documents as HUD may require, using forms prescribed by or acceptable to HUD, to implement the conversion transaction (the “Closing Documents”) including, without limitation, the following:
	1. The Conversion Agreement;
	2. A Release of Mortgage and Regulatory Agreement with respect to the Section 202 capital advance documents;
	3. A Satisfaction of Note indicating cancellation of the Capital Advance Mortgage Note;
	4. A Release of UCC-1 with respect to the Section 202 capital advance documents;
	5. The Elderly Housing Use Agreement;
	6. The HAP contract Parts I and II, with all exhibits;
	7. The Owner’s closing certifications and assurances; and
	8. A subordination agreement confirming the first lien position of the Elderly Housing Use Agreement.
6. Receipt and approval by HUD counsel of executed HUD form legal opinions issued by the existing owner’s counsel and the proposed owner’s counsel. The existing owner and the proposed owner agree to select competent counsel in connection with this Transaction in a manner that satisfies the applicable rules of professional conduct. Counsel to the existing owner and the proposed owner, if different, must provide the HUD form of legal opinion(s), as supplemented to address matters reasonably requested by HUD.
7. No material changes in the nature of the transaction as described in the Conversion Plan submission or, in the event of such changes, full disclosure of such changes. HUD shall review the transaction as revised to determine whether it remains acceptable. The draft Conversion Agreement attached hereto shall be modified before execution to reflect any necessary changes. The final business terms shall be determined as of the Closing and reflected in the applicable Closing Documents. Your execution of the Closing Documents shall constitute acceptance of the final business terms reflected therein. The Owner’s closing certifications and assurances, listed in Section 5(g), above, shall reaffirm the absence of material changes relative to the information previously provided to HUD.
8. Issuance of and compliance with an escrow instructions letter produced by HUD, submitting HUD-executed and recordable documents into escrow and electronic copies of non-recordable documents and setting forth the documents which must be fully executed and held in escrow prior to release of such documents for Closing. The escrow instructions shall specify that all the enumerated documents must be complete and fully executed and shall further specify that they be recorded and/or filed, if applicable, in the manner directed in the escrow instructions. The escrow instructions shall specify that if the escrow is not released and the Closing does not occur within ten (10) business days, the HUD-executed documents must be returned to HUD, unless otherwise approved by HUD.
9. Final determination by HUD, as specified in the escrow instructions letter, that all RAD requirements have been met to HUD’s satisfaction. This determination shall be communicated through an authorization to proceed to Closing and an authorization to release the Conversion Agreement and other Closing Documents for purposes of the Closing.

As used in this letter, “Closing” means execution by all parties of all binding legal instruments connected to the transaction contemplated by this letter, the Conversion Agreement, and the escrow instructions and the unconditional release of such documents from escrow by all parties. Recordation of such instruments, as applicable, shall occur promptly following Closing and recordation shall be evidence of Closing. All requirements set forth in this letter must be completed to HUD’s satisfaction before the Closing can occur. HUD reserves the right to require additional documents or items in addition to those listed as part of HUD’s final review and determination of program compliance. In the event any of the conditions set forth in this letter are not met to HUD’s satisfaction, HUD may decline to proceed to Closing in HUD’s sole and absolute discretion. Unless otherwise set forth in writing by HUD prior to Closing, HUD’s release of the Conversion Agreement for purposes of the Closing shall constitute any approvals or decisions required herein and not previously given in writing.

Regardless of whether the RAD conversion is consummated, HUD shall not be responsible for any expenses or transaction costs incurred by you or at your direction in connection with the RAD conversion (including without limitation, fees for consultants, attorneys, environmental contractors, tax advisors and accountants; city, county and/or state taxes and/or fees; recording fees, prepayment penalties and/or premiums; costs for title insurance and title examination; surveys and appraisals).

Simultaneous with the issuance of this conditional approval, HUD will assign a Closing Coordinator and a HUD Field Office Counsel to work with you to finalize this transaction. Project owners shall upload the documents listed above to the RAD Resource Desk at [www.radresource.net](http://www.radresource.net) for review by the assigned Closing Coordinator. Project owners shall submit these documents to the assigned Field Office Counsel in a format of the Field Office Counsel’s choosing.

The HUD Closing Coordinator will work with you to establish a target date for the execution of the Conversion Agreement, HAP contract and other Closing Documents. Please note that if the Closing does not occur within 90 calendar days from the date hereof, unless extended by HUD, the transaction will be returned to the HUD underwriting team for additional review.

Thank you for your commitment to affordable housing and your interest in the RAD program. If you have any questions, please contact your Closing Coordinator or Bev Rudman, Director of the Closing and Post-Closing Division, at Beverly.N.Rudman@hud.gov or at 202-402-8395.

Sincerely,

Thomas R. Davis

Director

Office of Recapitalization

Attachments:

Conversion Agreement

HAP Term Sheet

Pre-Closing Repairs

cc: Beverly Rudman, RAD Closing and Post-Closing Division Director, Recap HQ

John Ardovini, Branch Chief, Recap HQ

[Applicable RAD Transaction Manager]

Lorri Farrell, Branch Chief, OAMPO HQ, Assisted Housing Oversight Division

[Applicable Regional Director]

[Applicable Asset Management Division Director]

[Applicable Asset Management Branch Chief]

[Applicable Account Executive]

[Applicable Regional Funding Specialist]