



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-5000
OFFICE OF PUBLIC AND INDIAN HOUSING

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Manhattan Housing Authority
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The Honorable Karen McCulloh
Mayor of the City of Manhattan
1101 Poyntz Avenue
Manhattan, KS 66502

DETERMINATION OF SUBSTANTIAL DEFAULT

Dear Executive Director Estabrook, Board Chair Galitzer, and Honorable Mayor McCulloh:

This letter contains a determination of substantial default regarding the Manhattan Housing Authority (MHA), made pursuant to the explicit authority invested in the Secretary of the United States (U.S.) Department of Housing and Urban Development (HUD) by the U.S. Housing Act of 1937 (“the Act”), and delegated to me as the Principal Deputy Assistant Secretary of Public and Indian Housing. Please find in the paragraphs below the following: the determination of substantial default; a legal background section explaining HUD’s statutory authority and relevant program requirements implicated by this determination; factual findings and the supporting documentation; a reasoned analysis of those findings applied to the applicable law; and HUD’s choice as to the remedy of this substantial default, as permitted by the Act.

DETERMINATION

HUD has determined that MHA, a public housing agency (PHA) located in the City of Manhattan, Kansas, is in substantial default “with respect to the covenants or conditions to which the public housing agency is subject” pursuant to 42 USC 1437d(j)(3)(A) of the Act, for its failure to comply with material requirements of its troubled performer Memorandum of

Agreement (MOA) (commonly referred to as a Recovery Agreement) with HUD, as mandated by 24 CFR 907.¹

The substantial default determination is based on the following: MHA is a troubled performer as designated by HUD under the Public Housing Assessment System (PHAS), having received an overall score less than 60 (of 100) points for its fiscal year (FY) ending December 31, 2018. As a troubled performer, MHA was required to show substantial improvement in its subsequent annual PHAS assessments; and execute and comply with a Recovery Agreement with HUD. On February 4, 2021, HUD and MHA signed a Recovery Agreement, which included five performance requirements, each with sub-tasks and deadlines to be accomplished by MHA. The Recovery Agreement required MHA to fulfill all action items in the agreement by the first PHAS assessment that was released on or after December 31, 2022, or the end of its FY 2022.

On November 1, 2023, MHA was issued a troubled performer designation for FY 2022, and three (of five) performance requirements (S01, F01, and M01) remained unmet and past due. On December 6, 2024, MHA was issued a troubled performer designation for FY 2023.

As of the writing of this letter, MHA has failed to achieve two (of five) performance requirements (S01 and M01).

Hence, MHA is found to be in breach of its Recovery Agreement due to the unmet and past due requirements. On account of MHA's failure to meet the obligations of the Recovery Agreement, MHA is in violation of material and fundamental program obligations pursuant to 24 CFR 907.3(b)(2). Thus, for the reasons described herein, I have determined MHA to be in substantial default of HUD's public housing program requirements.

INTRODUCTION

MHA is a PHA in the City of Manhattan, Kansas that receives federal grant funds to operate a public housing program and a housing choice voucher program. Since MHA'S FY 2018, MHA has been a troubled performer under PHAS. MHA has failed to achieve two (of five) performance requirements in its Recovery Agreement. Therefore, HUD will declare MHA in substantial default and require MHA to undertake specific remedial tasks and actions, as outlined in this letter.

First, this letter summarizes the relevant legal background that provides HUD's authority to determine that MHA is in substantial default of its public housing obligations; and HUD's authority to remedy the substantial default. In addition, the legal background section identifies and explains the relevant statutory and regulatory programmatic requirements that are implicated in HUD's findings supporting the determination.

Second, this letter identifies key facts and findings in support of the determination. MHA has been aware of its deficiencies since the release of the FY 2018 PHAS score and executed a

¹24 CFR 907.3(b)(2): "Failure to act... in the case where a PHA is designated as a troubled performer under PHAS, the PHA shall be in substantial default if the PHA... fails to comply with the terms of an MOA..."

Recovery Agreement in 2021. MHA failed to meet the agreed deadlines for performance requirements of its Recovery Agreement with HUD.

Finally, HUD identifies remedial actions required to cure the substantial default, and as well as identifies HUD's authority to take further action, up to and including possession of MHA, for failure to cure the deficiencies.

RELEVANT LEGAL BACKGROUND

This section identifies and outlines the statutory and regulatory grants of authority to HUD's Secretary, which, when coupled with a PHA's assumption of grant agreement obligations, provide and support HUD's legal license to determine that a PHA is in substantial default and to impose and direct remedial actions and requirements up to and including taking possession of all or part of a PHA.

In addition, this section identifies and outlines programmatic requirements that MHA violated. It is MHA's material violation of program requirements that provide HUD with the authority to make a substantial default determination based on *any* such violation of program administration requirements found in federal statute, regulation, or the Annual Contribution Contracts (ACCs – the grant agreements) with HUD.

I. AUTHORITY FOR A DETERMINATION OF SUBSTANTIAL DEFAULT

A. SUBSTANTIAL DEFAULT AUTHORITY FOUND IN THE ACT

To the explicit exclusion of all other laws found in the U.S. Code, and the grant agreement between HUD and MHA, the Act provides explicit statutory authorization for HUD to make a determination that MHA is in substantial default when it has violated program requirements:

Notwithstanding any other provision of law or of any contract for contributions, ***upon occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject . . . the Secretary may— . . .***

See 42 USC 1437d(j)(3)(A) (emphasis added). This provision gives the HUD Secretary discretionary authority to act “upon occurrence of events . . . that constitute a substantial default.” *Id.* The Act does not vest this authority to make the determination whether a substantial default has occurred in an additional entity, nor does the Act otherwise limit the HUD Secretary’s discretion to make this determination. *See generally* 42 USC 1437d(j). Thus, the HUD Secretary, and his authorized delegates, have sole discretionary authority to determine whether MHA is in substantial default under the Act.

B. SUBSTANTIAL DEFAULT AUTHORITY FOUND IN REGULATION

HUD regulations elaborate the substantial default legal framework by further defining the grounds for a substantial default:

A PHA *may* be declared in substantial default when the PHA:

- (1) Violates a *federal statute*;
- (2) Violates a *federal regulation*; or
- (3) Violates *one or more terms of an [Annual Contributions Contract] ACC*, or other covenants or conditions to which the PHA is subject.

See 24 CFR 907.3(a) (emphasis added). Thus, HUD has discretion to declare MHA in substantial default under the Act for *any* violation of federal statute, federal regulation, or MHA's ACC(s) with HUD.

As will be detailed in the discussion section below, HUD has based its determination of substantial default on a violation of multiple terms of the troubled performer Recovery Agreement to which MHA was bound. Under the framework provided by the Act and HUD's corresponding regulations, *any single* valid determination of substantial default based on *any single* true violation is sufficient to allow HUD to seek remedies under the Act. Here, HUD's determination is based on MHA's noncompliance with performance requirements of the Recovery Agreement.

C. PROCEDURAL REQUIREMENTS FOUND IN REGULATIONS FOR A DETERMINATION OF SUBSTANTIAL DEFAULT.

HUD regulations also provide the procedures for declaring substantial default. HUD must provide MHA with a written determination—embodied by this letter—identifying “the specific statute, regulation, covenants, conditions, or agreements of which the PHA is determined to be in violation [and] the specific events, occurrences, or conditions that constitute the violation.” 24 CFR 907.5(a)(1)–(2). HUD has the discretion to determine whether an opportunity to cure the violation(s) is appropriate. *Id.* at 24 CFR 907.5(a)(4).

II. HUD'S REMEDIAL AUTHORITY TO CURE A SUBSTANTIAL DEFAULT

The Act grants HUD broad authority to exercise remedial relief to resolve a substantial default, up to and including taking possession of a PHA in whole or part:

Notwithstanding any other provision of law or of any contract for contributions, *upon occurrence of . . . a substantial default . . .* the Secretary *may*— . . .

(iv) *take possession of all or part of the public housing agency*, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and

(v) *require the agency to make other arrangements acceptable to the Secretary* and in the best interests of the public housing residents... for managing all, or part, of the public housing administered by the agency or of the programs of the agency.

See 42 USC 1437d(j)(3)(A)(iv)–(v) (emphasis added). This provision grants HUD extensive discretionary authority to remedy MHA’s substantial default through “other arrangements acceptable to the [HUD] Secretary.” *Id.*

III. PUBLIC HOUSING PROGRAM REQUIREMENTS UNDER 24 CFR 902 AND 907 IMPLICATED BY HUD’S FINDINGS IN SUPPORT OF ITS DETERMINATION OF SUBSTANTIAL DEFAULT

A. MHA’S OBLIGATIONS UNDER 24 CFR PART 902

In accordance with federal regulations found at 24 CFR Part 902, HUD assesses each PHA that receives funding from HUD for the public housing program. HUD provides an annual score and designation under its assessment system PHAS based on the PHA’s performance in financial, physical, management, and capital funding areas and aligned with the PHA’s fiscal year. *See 24 CFR § 902.9.* A PHA that receives an overall PHAS score of less than 60 (of 100) points is assigned a troubled performer designation. *See 24 CFR § 902.11(d)(1).* It is then required to show substantial improvement in its subsequent annual PHAS scores. *See 24 CFR § 902.75(d) and (g).*

As will be supported by the facts and findings below, MHA failed to show substantial improvement in its subsequent annual PHAS, in accordance with 24 CFR 902.75(d) and (g).

B. MHA’S OBLIGATIONS UNDER 24 CFR PART 907

Pursuant to 24 CFR 902.75(b), PHAs that are designated as a troubled performer are required to enter into a Memorandum of Agreement (commonly referred to as a Recovery Agreement) with HUD that outlines recovery requirements and deadlines for the PHA as well as “consequences of failing to meet the targets, which include, but are not limited to, the interventions stated in 24 CFR 907 and in Section 6(j)(3)” of the Act at 42 USC 1437d(j)(3). Pursuant to 24 CFR 907.3(b)(2), “in the case where a PHA is designated as a troubled performer under PHAS, the PHA shall be in substantial default if the PHA fails to comply with the terms of an MOA [(Recovery Agreement)].” *See 42 USC 1437d(j)(3)(A).*

MHA received a troubled designation for FY 2018 and subsequently executed a Recovery Agreement outlining requirements and deadlines for MHA’s recovery. As will be supported by the facts and findings below, MHA failed to comply with the terms of its Recovery Agreement in accordance with 24 CFR 907.3(b)(2).

FACTS AND FINDINGS

The following four facts and findings support HUD’s determination of substantial default:

1. On May 29, 2019, HUD’s Real Estate Assessment Center (REAC) issued MHA a troubled performer designation for FY 2018 under PHAS. The troubled designation resulted from an overall adjusted PHAS score of 39 (of 100) points, with deficiencies in physical, financial, and management indicators. *See Exhibit 1.*

2. Following MHA's initial troubled designation, HUD executed a Recovery Agreement with MHA on February 4, 2021, that addressed occupancy and financial management concerns. *See Exhibit 2.*
3. MHA retained its troubled performer PHAS designation for FY 2022 and 2023. *See Exhibit 1.*
4. MHA failed to meet the deadlines for four (of five) performance requirements (S01, F01, F02, and M01), and two (of five) performance requirements (S01 and M01) remain uncompleted, constituting a fundamental and material breach of the 2021 Recovery Agreement. *See Exhibit 3.*

DISCUSSION

HUD's determination of substantial default is based on violations of program requirements, as detailed below. Under the framework provided by the Act and HUD's corresponding regulations, any single determination of substantial default based on any single violation of these sources of program requirements permits HUD to seek remedies under the Act. *See 42 USC 1437d(j)(3)(A); and 24 CFR 907.3(a).* The violations of HUD requirements support HUD's determination of substantial default as follows.

I. MHA FAILED TO COMPLY WITH ITS OBLIGATIONS UNDER ITS RECOVERY AGREEMENT WITH HUD.

As required by 24 CFR 907.3(b)(2), MHA must comply with the terms of its Recovery Agreement. *See 42 USC 1437d(j)(3)(A).* ACHA has violated 24 CFR 907.3(b)(2) by failing to adhere to the conditions of its Recovery Agreement and neglecting to complete all necessary recovery actions.

On February 4, 2021, MHA executed a Recovery Agreement with HUD that contained a comprehensive summary of all the recovery obligations and deadlines. *See Exhibit 2.* Further, the Recovery Agreement explicitly outlined repercussions for failing to achieve the designated objectives in accordance with the Act at 42 USC 1437d(j)(3). *Id.* at p. 4. MHA understood the potential outcomes of not meeting the requirements outlined in the Recovery Agreement.

As of the date of this determination, MHA failed to meet the deadlines for Recovery Agreement performance requirements. *See Exhibit 3.* MHA's failure to fulfill the requirements is a material breach of the Recovery Agreement pursuant 24 CFR 907.3(b)(2).

MHA's failure to comply with the terms of its Recovery Agreement; and its inability or unwillingness to fully remedy its failing public housing program, is ample support and justification for HUD's determination that MHA is in substantial default. Thus, pursuant to 42 USC 1437d(j)(3)(A) and 24 CFR 907.3(b)(24), MHA is in substantial default for its material violations of the Recovery Agreement.

II. MHA FAILED TO MAKE A SUBSTANTIAL IMPROVEMENT IN ITS SUBSEQUENT ANNUAL PHAS SCORE.

MHA was issued a troubled performer designation for FY 2018, with an overall adjusted PHAS score of 39 (of 100) points. Upon issuance of a troubled performer designation MHA is required to show substantial improvement in its subsequent annual PHAS scores. *See* 24 CFR § 902.75(d) and (g). In accordance with 24 CFR § 902.75(d) and (g), MHA had to demonstrate substantial improvement for its one-year recovery period as reflected by the PHAS score for FY 2022.²

On November 1, 2023, MHA was issued another troubled performer designation for FY 2022, with a decreased adjusted score of 36 (of 100), failing to show substantial improvement. On December 6, 2024, MHA was issued yet another troubled performer designation for FY 2023, with a score of 37 (of 100).³ As of the date of this determination, MHA has failed to show substantial improvement under PHAS as required by 24 CFR § 902.75(d) and (g) by maintaining its troubled performer designation.

Despite the history of cooperative and comprehensive engagement between MHA and HUD, MHA repeatedly failed to address the systemic issues of its public housing program. MHA failed to make substantial improvements in its annual PHAS score for FY 2022 and 2023, and therefore has materially violated public housing program requirements 24 CFR § 902.75(d) and (g).

REMEDIAL ACTIONS REQUIRED

Pursuant to 42 USC 1437d(j)(3)(A)(v) of the Act, HUD may require a PHA to make “arrangements acceptable to HUD” after a determination of substantial default due to breach of a Recovery Agreement. Accordingly, HUD directs MHA to make all the following arrangements:

1. Within 60 (sixty) days of notification of substantial default, submit a Comprehensive Schedule of actions acceptable to HUD, which shall include specific tasks, subtasks, deadlines, and milestones, and to which MHA will adhere in order to improve PHAS sub-indicator scores and achieve a PHAS overall score of at least 60 (of 100).
2. Within 60 (sixty) days of notification of substantial default, submit an Evaluation of Repositioning Options acceptable to HUD, which shall evaluate repositioning options for all remaining public housing properties, with consideration to Rental Assistance Demonstration (“RAD”), Section 18 Demolition and/or Disposition, Voluntary Conversion, and/or Required Conversion.

² HUD did not issue PHAS scores for FYs 2019-2021 due to waivers and alternative requirements imposed during the COVID-19 pandemic under the CARES Act and associated HUD CARES Act implementing Notices.

³ HUD used physical sub-indicator information from the prior year’s assessment for PHAS assessments for FY 2023 due to a delay in NSPIRE scoring. Thus, HUD will not use the FY 2023 score as MHA’s two-year recovery period expiration under 24 CFR § 902.75(d) and (g), as this would not allow MHA to demonstrate recovery and compliance with the two-year requirement.

3. Within 60 (sixty) days of approval by HUD Special Application Center for Section 18 Demolition of Carlson Plaza (Application # DDA0012928), submit a plan for implementation and completion of the demolition to HUD.
4. Properly procure and engage consultants, technical assistance providers, and/or direct services contractors at MHA's expense in the areas of repositioning, financial reporting, and property management to ensure MHA's timely fulfillment of items 1-3 above.
5. Accept technical assistance as may be provided or funded by HUD to assist MHA under 24 CFR 907.7(a)(2) with any requirements and remedial tasks. However, MHA shall be responsible for completing any and all requirements and remedial tasks stated herein regardless of such technical assistance as HUD may or may not provide.

These remedial actions and related deadlines will replace the remaining unmet performance requirements from the 2021 Recovery Agreement. If MHA fails to complete any remedial action or task required herein within the timelines specified, HUD has full discretion to impose additional remedies as permitted by statute, regulation, and the ACC, including but not limited to those permitted under 42 USC § 1437d(j)(3)(A), as referenced above.

All correspondence and documentation related to the determination of substantial default and remedial actions required must be submitted to Tanya Burgin, Director, Kansas City Office of Public Housing, at Tanya.R.Burgin@hud.gov, unless an alternate point of contact is provided by HUD.

CONCLUSION

This determination of substantial default shall remain in effect until such time as MHA has cured the substantial default by either: (1) achieving an overall audited PHAS score of at least 60 (of 100) points; or (2) disposing of the entirety of its public housing assets through RAD, Section 18 Demolition and/or Disposition, conversion (Section 22 of the Act), or program transfer or consolidation (Notice PIH 2014-24). HUD shall have the sole discretion to make determinations regarding MHA's compliance with the remedial tasks and actions required under this determination of substantial default.

If MHA wishes to dispute the determination of substantial default, it shall have no more than ten (10) working days from the date of this notification to demonstrate that HUD's determination of substantial default is not substantively accurate (24 CFR 907.5(a)(3)). To dispute the determination, MHA may submit a response in writing in accordance with 24 CFR 907.5(b)(1) describing how the events, occurrences, or conditions described herein are in error or establishing that the events, occurrences, or conditions described herein do not constitute noncompliance with cited statutes, regulations, covenants, conditions, or agreements. *Id.* The response must be emailed to Tanya Burgin, Director, Kansas City Office of Public Housing, at Tanya.R.Burgin@hud.gov.

Nothing in this determination shall be understood to have waived HUD's right to exercise any right or remedy permitted by statute, regulation, and the ACCs, including but not limited to those permitted under 42 USC 1437d(j)(3)(A) as referenced above.

Should you have any questions regarding these timelines or requirements, please contact Tanya Burgin, Director, Kansas City Office of Public Housing, at Tanya.R.Burgin@hud.gov.

Sincerely,

Benjamin Hobbs
Principal Deputy Assistant Secretary
Office of Public and Indian Housing
U.S. Department of Housing and Urban Development

Enclosures:

Exhibit 1 – PHAS Score Reports
Exhibit 2 – 2021 Recovery Agreement
Exhibit 3 – 2021 Recovery Agreement Performance Requirements Status Update

CC:

Towanda Macon
Director, Office of Prevention, Recovery, and Transformation, PV (5APH)
Office of Public and Indian Housing
U.S. Department of Housing and Urban Development

Julie Miles
Regional Director, Mountains and Plains Network, PQ (7APH)
Office of Public and Indian Housing
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Tanya Burgin
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Office of Public and Indian Housing
U.S. Department of Housing and Urban Development



U.S. Department of Housing and Urban Development

OFFICE OF PUBLIC AND INDIAN HOUSING
REAL ESTATE ASSESSMENT CENTER

Public Housing Assessment System (PHAS) Score Report for Interim

Report Date: 11/17/2025

PHA Code:	KS063
PHA Name:	Manhattan Housing Authority
Fiscal Year End:	12/31/2018

PHAS Indicators	Original Score	Adjustment	Net Score	Maximum Score
Physical	29	0	29	40
Financial	0	0	0	25
Management	6	-1	5	25
Capital Fund	5	0	5	10
Late Penalty Points	-	0	0	
PHAS Adjustment	-	0	0	
PHAS Total Score	40	-1	39	100
Designation Status:				Troubled

Published 08/13/2019 Initial published 05/29/2019

Financial Score Details		Score	Maximum Score
Submission Type: Audited/Single Audit			
1. FASS Score before deductions		0.00	25
2. Audit Penalties		0.00	
Total Financial Score Unrounded (FASS Score - Audit)		0.00	25

Capital Fund Score Details		Score	Maximum Score
Timeliness of Fund Obligation:			
1. Timeliness of Fund Obligation %		90.0	
2. Timeliness of Fund Obligation Points		5	5
Occupancy Rate:			
3. Occupancy Rate %		53.22	
4. Occupancy Rate Points		0	5
Total Capital Fund Score (Fund Obligation + Occupancy Rate):		5	10

Notes:

1. The scores in this Report are the official PHAS scores of record for your PHA. PHAS scores in other systems are not to be relied upon and are not being used by the Department.
2. Due to rounding, the sum of the PHAS indicator scores may not equal the overall PHAS score.
3. "0" FASS Score indicates a late presumptive failure. See 902.60 and 902.92 of the Interim PHAS rule.
4. "0" Total Capital Fund Score is due to score of "0" for Timeliness of Fund Obligation. See the Capital Fund
5. PHAS Interim Rule website - <http://www.hud.gov/offices/reac/products/prophasinrule.cfm>



U.S. Department of Housing and Urban Development

OFFICE OF PUBLIC AND INDIAN HOUSING
REAL ESTATE ASSESSMENT CENTER

Public Housing Assessment System (PHAS) Score Report for Interim

Report Date: 11/17/2025

PHA Code:	KS063
PHA Name:	Manhattan Housing Authority
Fiscal Year End:	12/31/2022

PHAS Indicators	Original Score	Adjustment	Net Score	Maximum Score
Physical	21	0	21	40
Financial	0	0	0	25
Management	11	-1	10	25
Capital Fund	5	0	5	10
Late Penalty Points	-	0	0	
PHAS Adjustment	-	0	0	
PHAS Total Score	37	-1	36	100
Designation Status:				Troubled

Published 05/10/2024 Initial published 11/01/2023

Financial Score Details		Score	Maximum Score
Submission Type: Audited/Single Audit			
1. FASS Score before deductions		0.00	25
2. Audit Penalties		0.00	
Total Financial Score Unrounded (FASS Score - Audit)		0.00	25

Capital Fund Score Details		Score	Maximum Score
Timeliness of Fund Obligation:			
1. Timeliness of Fund Obligation %		90.0	
2. Timeliness of Fund Obligation Points		5	5
Occupancy Rate:			
3. Occupancy Rate %		74.57	
4. Occupancy Rate Points		0	5
Total Capital Fund Score (Fund Obligation + Occupancy Rate):		5	10

Notes:

1. The scores in this Report are the official PHAS scores of record for your PHA. PHAS scores in other systems are not to be relied upon and are not being used by the Department.
2. Due to rounding, the sum of the PHAS indicator scores may not equal the overall PHAS score.
3. "0" FASS Score indicates a late presumptive failure. See 902.60 and 902.92 of the Interim PHAS rule.
4. "0" Total Capital Fund Score is due to score of "0" for Timeliness of Fund Obligation. See the Capital Fund
5. PHAS Interim Rule website - <http://www.hud.gov/offices/reac/products/prodphasintrule.cfm>



U.S. Department of Housing and Urban Development

OFFICE OF PUBLIC AND INDIAN HOUSING
REAL ESTATE ASSESSMENT CENTER

Public Housing Assessment System (PHAS) Score Report for Interim

Report Date: 11/17/2025

PHA Code:	KS063
PHA Name:	Manhattan Housing Authority
Fiscal Year End:	12/31/2023

PHAS Indicators	Score	Maximum Score
Physical	21	40
Financial	0	25
Management	11	25
Capital Fund	5	10
Late Penalty Points	0	
PHAS Total Score	37	100
Designation Status:	Troubled	

Published 12/06/2024 Initial published 12/06/2024

Financial Score Details	Score	Maximum Score
1. FASS Score before deductions	0.00	25
2. Audit Penalties	0.00	
Total Financial Score Unrounded (FASS Score - Audit)	0.00	25

Capital Fund Score Details	Score	Maximum Score
Timeliness of Fund Obligation:		
1. Timeliness of Fund Obligation %	90.00	
2. Timeliness of Fund Obligation Points	5	5
Occupancy Rate:		
3. Occupancy Rate %	67.67	
4. Occupancy Rate Points	0	5
Total Capital Fund Score (Fund Obligation + Occupancy Rate):	5	10

Notes:

1. The scores in this Report are the official PHAS scores of record for your PHA. PHAS scores in other systems are not to be relied upon and are not being used by the Department.
2. Due to rounding, the sum of the PHAS indicator scores may not equal the overall PHAS score.
3. "0" FASS Score indicates a late presumptive failure. See 902.60 and 902.92 of the Interim PHAS rule.
4. "0" Total Capital Fund Score is due to score of "0" for Timeliness of Fund Obligation. See the Capital Fund
5. PHAS Interim Rule website - <http://www.hud.gov/offices/reac/products/prodphasintrule.cfm>

Recovery Agreement between
the Manhattan Housing Authority
and
the United States Department of Housing and Urban Development
And
the City of Manhattan, Kansas

This Recovery Agreement is entered into between the Manhattan Housing Authority, the UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ("HUD") and the City of Manhattan, Kansas, as of this 4th day of February, 2021.

RECITALS

WHEREAS, under the United States Housing Act of 1937, as amended, ("Act"), 42 U.S.C. § 1437 *et seq.*, the United States Department of Housing and Urban Development ("HUD") is responsible for administering low-income housing programs, and pursuant to the Act, HUD has entered into an Annual Contributions Contract ("ACC") with the Manhattan Housing Authority to develop and operate public housing projects of the Manhattan Housing Authority; and

WHEREAS, pursuant to the Act, HUD must evaluate public housing performance and has instituted the Public Housing Assessment System ("PHAS"); and

WHEREAS, on the basis of an annual PHAS score, the Manhattan Housing Authority has been designated Troubled or Substandard for financial, physical and/or management indicators, or other such deficiencies as HUD has identified; and

WHEREAS, the Act requires HUD to enter into agreements that establish performance targets, set out strategies for meeting targets, provide for incentives and sanctions for effective implementation of the strategies leading to recovery of performance and attain an improved status of at least a Standard Performer. Among other requirements, the Recovery Agreement and Action Plan will include recovery benchmarks in accordance with statutory requirements, implemented by regulations found at 24 CFR §902.75(d). Specifically, the Manhattan Housing Authority must meet two sequential benchmarks after being designated Troubled: 1) a 50% recovery of the Troubled PHAS score for the period ending December 31, 2021 – that is to say, a minimum PHAS score for that period of 49, and 2) a full recovery to a PHAS score of 60 or higher for the period ending December 31, 2022.

WHEREAS, the recovery of performance is intended to lead to a sustainable sound fiscal management and good governance; and

WHEREAS, the parties desire to correct all HUD-identified deficiencies through the implementation of this Recovery Agreement, ("Agreement");

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, HUD, the Manhattan Housing Authority and the City of Manhattan agree as follows:

- I. The Manhattan Housing Authority agrees to achieve the outcomes outlined in the Action Plan and incorporated into this Agreement as Exhibit A.
- II. The Manhattan Housing Authority agrees to develop and implement a Sustainability Plan if necessary, to achieve recovery.
- III. The Action Plan describes the results following HUD's review and assessments of PHA performance, the measures that need to be implemented to improve the performance and the desired outcomes to be achieved and establishes a timetable to achieve those outcomes. The Action Plan also identifies the available remedies to resolve HUD's determination of non-performance.
- IV. Upon execution of the Agreement, the Manhattan Housing Authority will commence with the required actions listed in the Plan within the timeframes set forth therein.
- V. The Manhattan Housing Authority will cure identified deficiencies within the timeframes established in the Action Plan.
- VI. Subject to section XII, regardless of possible changes in the Manhattan Housing Authority's Board composition, or the decision-making individuals for HUD or the City of Manhattan, the term of this Agreement is effective as of the execution date of this document and will continue until completion of the Action Plan in accordance with 6(j) (2) and (3) of the Act, and any agreed upon extensions. This Agreement will remain in effect until the Manhattan Housing Authority has completed all items listed in the Plan, even if HUD removes the Manhattan Housing Authority's troubled/substandard designation.
- VII. HUD, in its discretion, may provide technical assistance, including training or contract support, to the Manhattan Housing Authority to facilitate accomplishment of the items in the Action Plan. The Manhattan Housing Authority's compliance with the Action Plan, however, shall not be contingent on HUD's provision of any technical assistance or other discretionary assistance.
- VIII. The Manhattan Housing Authority shall provide HUD with written progress reports as identified in the Action Plan. The report shall detail the Manhattan Housing Authority's progress towards the completion of the items required by the Action Plan. The reports shall identify those items that have been completed and provide any necessary documentation to support this determination.
- IX. HUD will review the Action Plan progress reports submitted by the Manhattan Housing Authority and supporting documentation. HUD will confirm in writing to the Manhattan Housing Authority the items that HUD determines to have been successfully completed, those that require additional documentation and those that are past due.
- X. If the Manhattan Housing Authority disagrees with HUD's determination concerning the completion of any item, the Manhattan Housing Authority may request a reconsideration

of the determination and submit additional information to support its position. HUD will provide the Manhattan Housing Authority with a written notice of its decision.

XI. The failure of the Manhattan Housing Authority, its employees, officers, agents, or contractors to comply with this Agreement, including the failure to achieve the agreed upon outcomes or to take the actions or comply with the time frame set forth in the Action Plan, HUD shall notify the Executive Director in writing of the fact of non-compliance. The Executive Director shall have 90 days from the receipt of the written notice of non-compliance to cure the area of non-compliance. If during the 90 day period, the Manhattan Housing Authority is unable to cure the area of non-compliance, HUD may impose sanctions up to and including the transfer/contracting out of the Manhattan Housing Authority's management operations to an alternate HUD approved management agent/housing authority. Furthermore, non-compliance may result in HUD seeking any available remedies, including any of the following actions sequentially or simultaneously:

- a. Consolidation;
- b. Consortia/Joint Venture;
- c. Contraction of Operational Activities;
- d. Cooperative Endeavor Agreement;
- e. Debarment;
- f. Deliver possession and control of project(s) to HUD;
- g. Limited Denial of Participation;
- h. Receivership;
- i. Suspension; and/or
- j. Repositioning.

XII. The parties by mutual written agreement may agree to extend the timeframes set forth in the Action Plan from time to time. In the event said timeframes are extended, HUD agrees that it will not take any of the actions against the Manhattan Housing Authority as set forth in this section (Section XI) of the Agreement for noncompliance with original timeframes.

XIII. Communication related to the Recovery Agreement and Action Plan shall be provided to the Public Housing Director and the HUD Recovery Team leader, if applicable.

XIV. HUD, the Manhattan Housing Authority and their employees, subcontractors, partners or assigns, and the City of Manhattan shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this Agreement to which their activities are subject.

XV. Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Agreement that arises from

fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, riots, civil commotion, force majeure, acts of God, or for any other cause of same character which is unavoidable through the exercise of due care and beyond the control of the parties, provided that said failure or delay in the performance of this Agreement attributed to any of the events described herein is acknowledged in writing by HUD. Upon the issuance of HUD's written acknowledgement, the failure to perform shall be deemed excused during the continuance of such circumstances as determined by HUD, but this Agreement shall otherwise remain in effect.

XVI. In the event of any conflict between terms in this Agreement, including all exhibits, attachments and all other documents specifically incorporated by reference, and HUD's applicable Public Housing requirements including, but not limited to, the Act, HUD regulations there under (and, to the extent applicable, any HUD-approved waivers of regulatory requirements), the ACC, HUD notices, the HUD-approved Declaration of Trust or Declaration of Restrictive Covenants in favor of HUD, and all applicable Federal statutory, executive order and regulatory requirements, as those requirements may be amended from time to time, the applicable Public Housing requirements shall prevail. HUD reserves the right to resolve any conflict.

XVII. Any modification or amendment of any condition or provision in this Agreement by either party will not imply or constitute a further modification or amendment of the same or any other condition or provision, nor shall it relieve the parties from performing any subsequent obligations strictly in accordance with the term of this Agreement. No modification or amendment shall be effective unless in writing and signed by the party against whom enforcement is sought. Such modification or amendment shall be limited to provisions of this Agreement specifically referred to therein and shall not be deemed a modification or amendment of any other provision. No modification or amendment of this Agreement shall constitute a HUD-approved waiver of regulatory requirements.

XVIII. Should any term or provision of this Agreement be held, to any extent invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.

XIX. To the extent authorized by the Act and HUD regulations, HUD can unilaterally amend this Agreement. Otherwise, this agreement may be amended by mutual agreement of the parties.

XX. This Agreement states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this Agreement. However, this Agreement does not supersede, modify or amend the ACC as further described in Paragraph XXII. The parties recognize that any representations, statements or negotiations made by the staff of either party does not suffice to legally

bind either party in a contractual relationship unless they have been reduced to writing and signed by their authorized representative(s). This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

XXI. This Agreement may be executed and delivered in separate counterparts, which, when so executed and delivered, shall be deemed an original.

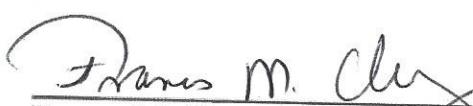
XXII. This Agreement does not supersede, modify or amend the ACC between HUD and the Manhattan Housing Authority, or in any way excuse the Manhattan Housing Authority from complying fully with its obligations under the ACC. HUD does not waive its statutory, regulatory or contractual rights. Nothing contained in this Agreement shall serve to limit, modify or preclude HUD's right to take any remedial action allowed by the ACC or any provision of the Act or related regulations. Nothing contained in this Agreement shall serve to limit, modify or preclude HUD or the Manhattan Housing Authority's right to take any remedial action allowed by the Agreement.

XXIII. The parties agree that any cost associated with the implementation of this Agreement, the Action Plan and the Sustainability Plan shall be their individual responsibility unless specifically agreed in writing between the parties.

XXIV. The City of Manhattan, through its Appointing Authority, acknowledges the importance of effective governance as part of the recovery and sustainability of the Manhattan Housing Authority. As a signatory of this Agreement, the City of Manhattan agrees that it will consider in good faith the removal of any Manhattan Housing Authority Governing Body member who is failing to discharge their duties, upon written recommendation from either (a) HUD; or (b) the Manhattan Housing Authority Governing Body, when made in accordance with its bylaws.

IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this Agreement on the date first written above.

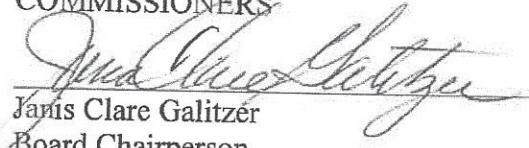
UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

By: 
Frances M. Cleary
Public Housing Director
Kansas City Field Office

02/14/2021

MANHATTAN HOUSING AUTHORITY
ATTEST: BY ITS BOARD OF
COMMISSIONERS

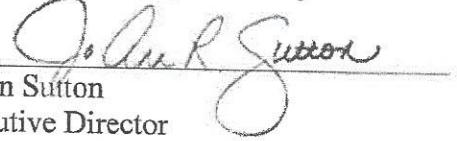
By:


Janis Clare Galitzer
Board Chairperson

By:

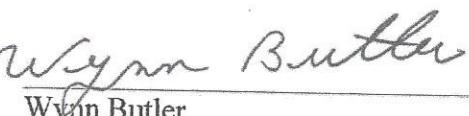

Livie Olson
Board Vice-Chairperson
Manhattan Housing Authority

By:


JoAnn Sutton
Executive Director
Manhattan Housing Authority

CITY OF MANHATTAN

By:


Wynn Butler
Mayor
City of Manhattan

Action Plan--Exhibit A to the Recovery Agreement between the Manhattan Housing Authority and HUD

Item Number	Results and Determinations from Assessment	Desired Outcome	Performance Measurement		Target Accomplishment Date or FYE	Actual Accomplishment Date or FYE	Remedies
			Baseline Data or PHAS Score as of 12/31/2018	Required Score or Measurement			
AREA: PHAS SUBSTANTIAL IMPROVEMENT							
S01	The PHA's governance has been ineffective in maintaining PHA performance at an acceptable level, leading to failing performance in PHAS and a designation as troubled.	By the next PHAS assessment that is at least 12 months after the initial notice of the troubled performer designation, improve performance by at least 50 percent of the difference between the initial PHAS assessment score that led to the troubled performer status and the score necessary to remove the PHA's designation as a troubled performer.	29 out of 40 - physical indicator 0 out of 25 - financial indicator 5 out of 25 - management indicator 5 out of 10 Capital Fund indicator overall score 39 out of 100	Minimum Score of 50 under PHAS	The PHAS assessment released by HUD for the first Fiscal Year End date that is 12/31/2021 or later		Failure to achieve an improved score of at least 60 will result in a referral to the Assistant Secretary to determine such remedial actions, consistent with the provisions of the ACC and other HUD regulations, including, but not limited to, remedies available for substantial default.
		By the next PHAS assessment that is at least 24 months after the initial notice of the troubled performer designation, improve performance and achieve an overall PHAS score of at least 60.		Minimum Score of 60 under PHAS	The PHAS assessment released by HUD for the first Fiscal Year End date that is 12/31/2022 or later (subject to a waiver that impacts substantial improvement and recovery timelines).		Failure to achieve an improved score of at least 60 will result in a referral to the Assistant Secretary to determine such remedial actions, consistent with the provisions of the ACC and other HUD regulations, including, but not limited to, remedies available for substantial default.
AREA: FINANCIAL							
F01	MHA's continuing Occupancy issues is the primary driver affecting the Housing Authority's Financial solvency.	MHA will increase occupancy to at least 92% by the Target Accomplishment Date of 12/31/22	Occupancy of at least 92%	MHA will develop and implement a comprehensive plan to increase solvency.	Increased occupancy of at least 92% on December 31, 2022		Failure to meet the required score or measurement, or failure to achieve solvency, as stated in the Desired Outcome, will result in the repositioning of Carlson Plaza including selling the building with the goal of having Carlson repositioned no later than three years after the first released assessment on or after December 31, 2022. The PHA will not retain ownership of the units and, instead, will manage the vouchers obtained through repositioning. Any proceeds from the sale of Carlson Plaza will be used to pay off PHA debt.
F02	MHA previously used funds from the Low-Rent program to cover the administrative shortfall of the Housing Choice Voucher program, which is an ineligible use of Low-Rent funds and a violation of the Appropriations Act. This negatively affects MHA's cash flow. As a result of the financial decisions by MHA, HUD has determined MHA to be insolvent and troubled under PHAS scoring.	MHA will pay all funds due from the Housing Choice Voucher program to the Low-Rent program. MHA will implement measures to ensure the Housing Choice Voucher program expenditures are no greater than the administrative fees received.	0 out of 25 - financial indicator	No funds from the Low-Rent program are used for any ineligible expenses.	The first released assessment on or after December 31, 2022		Failure to accomplish the Desired Outcome will result in MHA agreeing to pursue repositioning of all Public Housing units through a Streamlined Voluntary Conversion (SVC) or other conversion action, with the goal of having all units repositioned no later than three years after the first released assessment on or after December 31, 2022. The PHA will no longer perform property management services.
AREA: Management							
M01	MHA's management did not readily identify and execute capital improvements which led to Occupancy and Financial issues	Management needs to ensure, that as a part of capital improvements, units are ready to be leased in a reasonable amount of time	5 out of 25 - management indicator	MASS score of at least 15 by December 31, 2022	The first released assessment on or after December 31, 2022		Failure to accomplish the Desired Outcome by achieving and maintaining a management indicator of at least 15 will result in MHA agreeing to pursue repositioning of all Public Housing units through a Streamlined Voluntary Conversion (SVC) or other conversion action, with the goal of having all units repositioned no later than three years after the first released assessment on or after December 31, 2022 and the PHA will no longer perform property management services.

Action Plan--Exhibit A to the Recovery Agreement between the Manhattan Housing Authority and HUD

Item Number	Results and Determinations from Assessment	Desired Outcome	Performance Measurement		Target Accomplishment Date or FYE	Actual Accomplishment Date or FYE	Remedies
			Baseline Data or PHAS Score as of 12/31/2018	Required Score or Measurement			
M02	MHA continues to maintain Tenants Accounts Receivable (TAR) in Public Housing and Account Receivables for the LIHTC property. This negatively affects MHA's cash flow. As a result, the high TAR contributed to the low MASS score. TAR and LIHTC accounts receivable contributed to the low FASS score.	MHA will ensure that adequate steps are taken to achieve a minimum TAR score of 1.5 by 12/31/22	FY12/31/18 TAR of 12.5%	TAR will be less than 1.5 by 12/31/22	The first released assessment on or after December 31, 2022		Failure to meet the required score or measurement steps described in the desired outcome will result in MHA providing proper written notice to the owner to terminate the management agreement for the LIHTC property.

Targeted Performance Item	Action	Initial Reporting Period	Target Date	Actual Date	Comments
S01	MHA's Board and management will take steps to ensure that the next PHAS assessment that is at least 24 months after the initial notice of the troubled performer designation will be at least 60.	1/31/2021	As of the first released assessment on or after December 31, 2021		
F01/M01	Develop and implement a comprehensive marketing plan to include marketing units to students and military families. MHA will develop a plan to ensure all vacant units are turned and ready for occupancy no later than 30 days after vacant.	1/31/2021	Within 60 days of execution of this Agreement		
F01	MHA will develop a comprehensive plan for the future of all properties which will include the potential for repositioning.	1/31/2021	Within 60 days of execution of this Agreement		
F01/M01	MHA will get a Capital Needs Assessment of the property, including the data necessary to determine if Carlson Plaza can be determined to be obsolete, to include all anticipated expenditures.	1/31/2021	Within 60 days of execution of this Agreement		
F02	MHA's Board will ensure that an adequate budget, for the PH and HCV admin programs, are prepared to increase revenue and reduce expenses and cover all long-term liabilities. The PH budget will reflect a reduction in expenses to cover debt. The Housing Authority PH program must prepare a proforma that specifies leasing, income and expenses over the term of the debt.	1/31/2021	Within 60 days of execution of this Agreement		
F02	MHA's Board will analyze the proforma and make an assessment as to whether solvency can be achieved and when that will occur along with improvements of their Quick Ratio, Months Expendable Net Assets Ratio, and Debt Service Coverage Ratio.	1/31/2021	Within 60 days of execution of this Agreement		
F02/M02	Follow HUD Regulations and Federal Law regarding use of taxpayer funds. The Housing Choice Voucher program, Low-Rent Housing program and the LIHTC program must be separately maintained and not rely on the other programs for funding purposes. MHA will budget expenses for each program and ensure the budgeted to actual delta is minimal. MHA will consider the budget for each program to ensure accuracy and will draft an interfund policy that will be approved and implemented so that low rent and HCV funds are not used to support other programs.	1/30/2021	Within 60 days of execution of this Agreement		12/10/20 dm - MHA has drafted an interfund policy that will be board approved, will provide to me ASAP
M02	MHA will develop and implement a policy and procedure which ensures that there aren't any LIHTC expenses paid directly by LIHTC and not use interfund transfers or Due To / Due Froms	1/30/2021	Within 60 days of execution of this Agreement		
M02	MHA will provide documentation to the Kansas City Kansas HUD Field Office that shows LIHTC has repaid all funds to the PH or HCV programs	1/31/2021	Within 6 months of execution of this Agreement		
Housing Authority shall submit progress reports to the Field Office using this Action Plan as the reporting template commencing _____ and every _____ thereafter until the Recovery Agreement is terminated. Each progress report shall identify (1) actions taken during the reporting period that the Housing Authority has taken toward achieving the measurements identified in the Performance Standards, and (2) actions the Housing Authority will take in the next reporting period.					

Performance Standards

General

The Performance Standards section identifies the outcomes to which the PHA will be held accountable for achieving. The outcomes must include any statutory and regulatory recovery requirements under 6(j) of the Housing Act and the PHAS Interim Rule. In addition, it may include other key performance areas necessary for the long-term sustainability of the PHA. Once executed, this section of the Recovery Agreement Action Plan may be modified only in accordance with Section XIX of the Recovery Agreement.

Results & Determinations

The results and determinations (R&D) from the assessment that are impacting the PHA's performance. Multiple R&Ds may be aggregated into one performance metric

Desired Outcome

The level of performance (readiness, willingness, ability and ethics) of the PHA necessary to ensure the sustainable recovery of the PHA.

Baseline Data or PHAS Score

Metrics (in most cases, the PHAS indicator or sub-indicators) that reflect achievement of the performance area identified in the Desired Outcome at the time the PHA entered "Troubled" status.

Required Score or Measurement

Metrics (in most cases, the PHAS indicator or sub-indicators) that will be used to measure whether the PHA has achieved the Desired Outcome. These metrics must match the baseline data metrics.

Target Accomplishment Date

The date by which a PHA shall achieve a Desired Outcome, as evidenced by the identified metric. In the case of metrics based on the PHAS indicator or sub-indicators, the target date should be tied to the release of a FYE score (e.g., 12/31/2020 release) rather than an actual date.

Actual Accomplishment Date

The date (or score release) where a PHA achieves the Desired Outcome as evidenced by the identified metric.

Remedies

Specific actions that HUD and the PHA agree will be taken in the case that a PHA fails to achieve a Desired Outcome (as evidenced by the identified metric) within the target accomplishment date; or, in the case of an incentive, incentives that will be available to a PHA upon achieving a Desired Outcome (as evidenced by the identified metric) within the target accomplishment date. Failure to implement an agreed-upon remedy by a PHA when a Desired Outcome is not met is a default of the Recovery Agreement.

Action Items

General

The Action Items section identifies the actions the PHA commits to make in order to progress toward the achievement of the Desired Outcomes identified in the Performance Standards section of this document. At the outset of the agreement, the PHA, in conjunction with technical assistance by HUD, should establish initial steps that the PHA will take to begin the recovery process. The Action Items section should be updated each reporting period, with the PHA (1) verifying whether an action was completed within the reporting period, and (2) establishing additional actions that need to be taken to achieve the Desired Outcomes. HUD will not implement a remedy for failure to achieve an action within the targeted time period; however, the Action Items section of the Action Plan will be a part of the administrative record in the case that HUD takes an administrative action.

Targeted Performance Item

The Item Number from the Performance Standards section that references the Desired Outcome to be targeted.

Action

An action the PHA will take to work towards a Desired Outcome within the Performance Standards section of the Action Plan. The PHA is responsible for developing its plan of action and can request feedback or technical assistance from HUD.

Initial Reporting Period

The first reporting period in which an action is established.

Target Date

The date by which an action will be completed. A reporting period date may be used rather than a specific date (e.g., if an action is projected to be completed within a month or quarter, the target date may reference the next reporting period date). An action item may span more than one reporting period, but if multiple steps are required to achieve an action (e.g., if the PHA must do certain tasks before completing a larger task (such as a RAD conversion)), then the PHA should break the action item into multiple items to allow for monitoring of progress.

Actual Date

The date by which an action is completed. A reporting period date may be used rather than a specific date.

Comments

Additional information relevant to the PHA's completion of action items.

Recovery Agreement Performance Requirements Completion Status Update

Item	Performance Requirement	Deadline	Completion Status
S01	Achieve a minimum score of 50 (of 100) points on PHAS, on the first assessment released for the first Fiscal Year End date that is on or after 12/31/2022. Achieve a minimum score of 60 (of 100) points on PHAS, on the first assessment released for the first Fiscal Year End date that is on or after 12/31/2024. (Original dates adjusted to accommodate for COVID waivers and delay in NSPIRE rollout.)	12/31/2022	Did not meet deadline. Remains uncompleted.
F01	Implement a comprehensive plan to increase solvency and increase occupancy to at least 92% by the Target Accomplishment Date of 12/31/2022.	12/31/2022	Did not meet deadline. Completed as of 10/21/2024.
F02	Pay all funds due from the Housing Choice Voucher program to the Low-Rent program and implement measures to ensure the Housing Choice Voucher program expenditures are no greater than the administrative fees received by the first released assessment on or after 12/31/2022.	12/31/2022	Did not meet deadline. Completed as of 4/11/2022.
M01	Ensure that as a part of capital improvements, units are ready to be leased in a reasonable amount of time and achieve a MASS score of at least 15 by the first released assessment on or after 12/31/2022.	12/31/2022	Did not meet deadline. Remains uncompleted.
M02	Achieve a minimum TAR score of 1.5 by the first released assessment on or after 12/31/2022.	12/31/2022	Met deadline. Completed as of 12/31/2022.