



Faircloth to RAD: What This Means in Plain English and the Opportunities Created

November 2024



Restore**REBUILD**

November 2024

1 ***Introduction***

2 ***Quick RAD Refresher***

3 ***Restore Rebuild***

4 ***RAD Resources***



Bennett Applegate, Jr.



Jesse Elton

TCB and Restore-Rebuild



Pershing Place, Chicago, IL
Partnership with the Chicago Housing
Authority,
Granite Development and UJIMA, Inc.

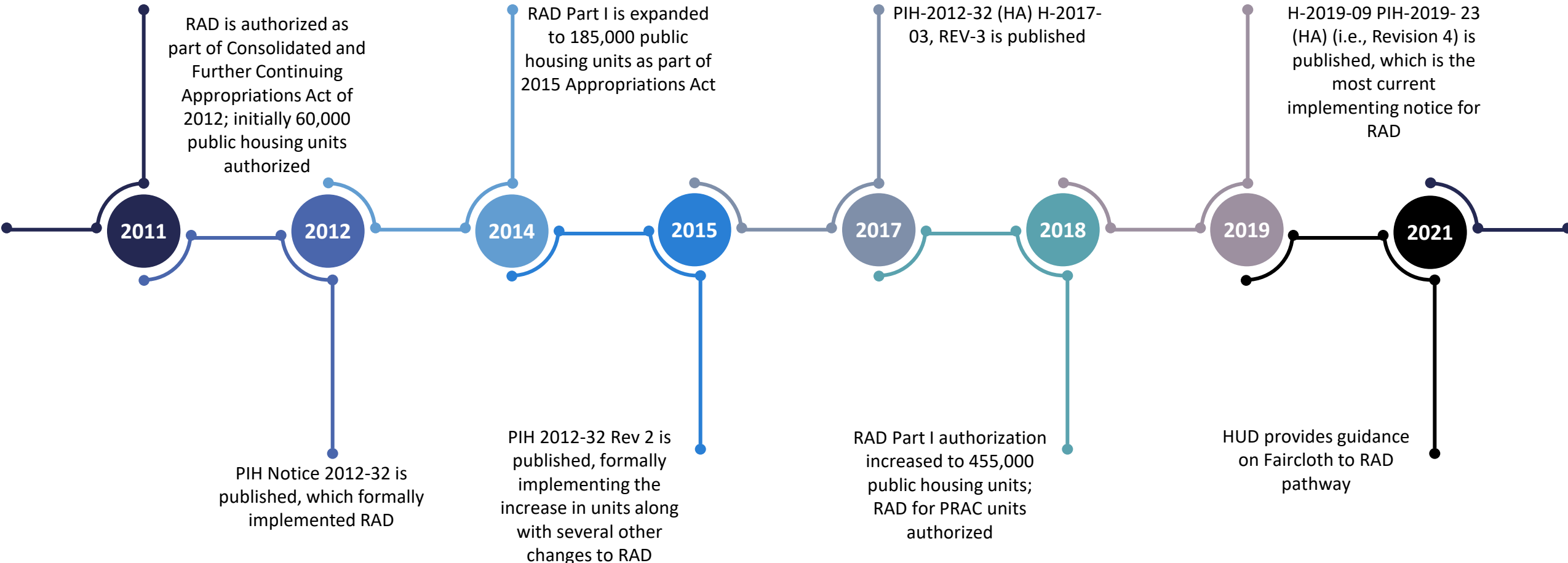
1 ***Introduction***

2 ***Quick RAD Refresher***

3 ***Restore Rebuild***

4 ***RAD Resources***

The Rental Assistance Demonstration (RAD) Program was initially authorized in 2011 and has grown significantly



HUD has historically funded public housing in two funding buckets – Capital and Operating – each with use restrictions

Public Housing Capital Fund

Sample uses:

- Capital Improvements
- Nonroutine Maintenance
- Code Compliance
- Resident Relocation
- Demolition and reconfiguration
- Development-related legal costs

Public Housing Operating Fund

Formula based on:

- Operating Expenses
- Utilities
- PILOT
- Asset Management Fee
- Resident Participation
- minus project income

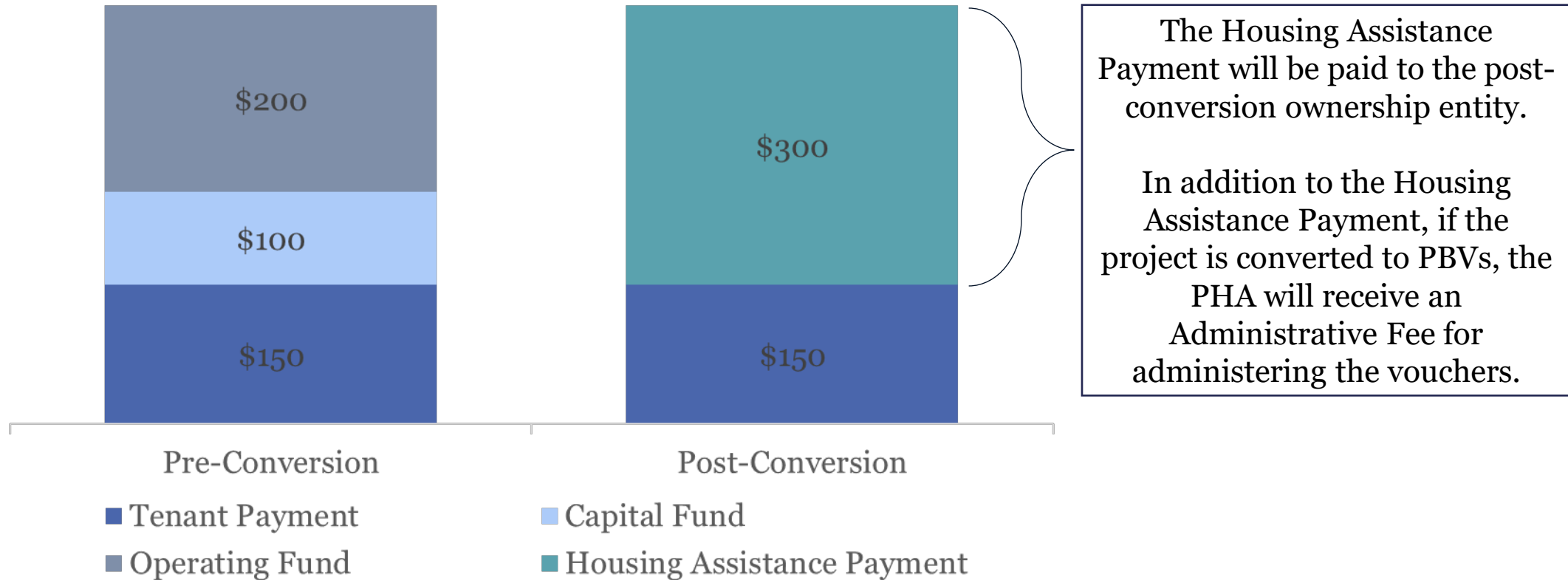
Other Funding Sources

- Choice Neighborhoods Initiative
- Low-Income Housing Tax Credits
- Housing Choice Voucher Funds (MTW agencies only)
- Private and non-profit funds, e.g., loans
- State and local funds

With some exceptions, neither permitted to be used as collateral or to service debt!

RAD converts the Operating and Capital Fund assistance into HAP payments; RAD is intended to be budget neutral

Subsidy Structure – Pre and Post Conversion



Only PHAs may apply; however, the PHA may enlist partners to facilitate financing and development

Eligibility Requirements

- ✓ **Have active PH units under an ACC**
- ✓ Standard or High Performing under PHAS
- ✓ Standard or High Performing under SEMAP
- ✓ Substantial compliance with HUD reporting and compliance requirements
- ✓ No debarment, suspension, or Limited Denial of Participation
- ✓ Submit completed RAD Application
- ✓ No charge, cause determination, lawsuit, or letter of finding outlined in PIH Notice 2012-32 (HA), Rev-3 §1.3.G.1-5

1 ***Introduction to Restore Rebuild***

2 ***Quick RAD Refresher***

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4 ***RAD Resources***

The “Faircloth Amendment”

“.... a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999...”

- Section 9(g)(3) United States Housing Act of 1937

Over 250,000 additional units of public housing are authorized to be built and funded under “Faircloth Authority” across the United States

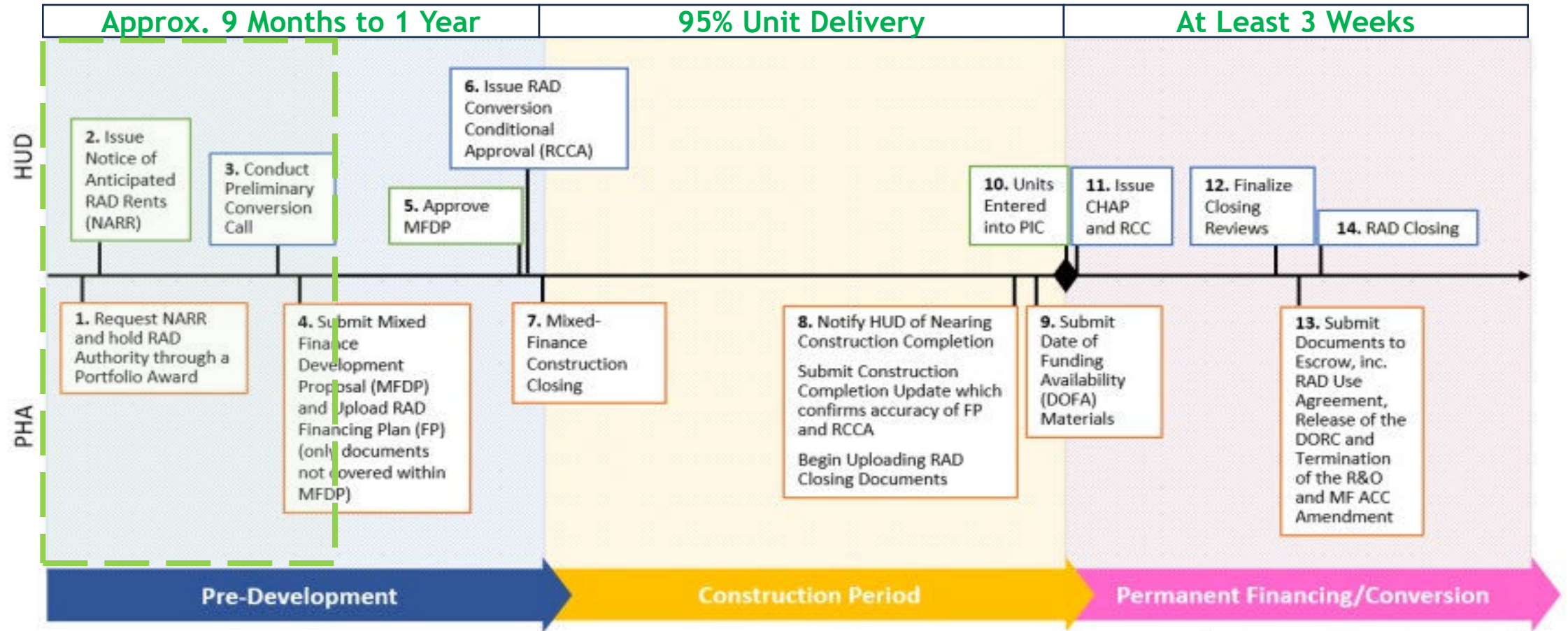
PHA Name	Base Faircloth Limit	Units Converted through RAD as of October 15, 2023	Current Faircloth Limit	Current Standing ACC Unit Count	New Unit (Faircloth) Availability
Chicago Housing Authority	41006	6653	34353	14832	19521
New York City Housing Authority	180343	4221	176122	157509	18613
Housing Authority of New Orleans	12552	0	12552	2220	10332
Housing Authority of the City of ATLANTA Georgia	13310	1831	11479	2274	9205
Philadelphia Housing Authority	21739	2007	19732	12977	6755
Housing Authority Of Baltimore City	17212	4058	13154	6623	6531
Housing Authority of the City of Pittsburgh	9249	700	8549	3163	5386
Memphis Housing Authority	7221	439	6782	2110	4672
Detroit Housing Commission	7665	0	7665	3409	4256
Newark Housing Authority	11140	1058	10082	5875	4207
Columbus Metropolitan Housing Authority	5194	1157	4037	211	3826
Housing Authority of the City & County of SF	6736	2700	4036	369	3667
PUERTO RICO PUBLIC HOUSING ADMINISTRATION	56936	0	56936	53463	3473
St. Louis Housing Authority	6242	0	6242	2809	3433
Housing Authority of the City of Dallas, Texa	6218	0	6218	3169	3049
Boston Housing Authority	12086	492	11594	8630	2964
D.C Housing Authority	11242	109	11133	8178	2955
Louisville Metro Housing Authority	6278	21	6257	3763	2494
MIAMI DADE PUBLIC HOUSING AND COMMUNITY DEV	10706	1715	8991	6681	2310
Cincinnati Metropolitan Housing Authority	7428	845	6583	4421	2162
Housing Authority of the City of Los Angeles	8819	485	8334	6307	2027
Cuyahoga Metropolitan Housing Authority	11853	4267	7586	5696	1890
TAMPA HOUSING AUTHORITY	4936	2717	2219	367	1852
Oakland Housing Authority	3304	0	3304	1454	1850
Housing Authority of the City of Gary Indiana	2419	0	2419	649	1770
San Antonio Housing Authority	7814	0	7814	6070	1744

Data Published by HUD as of October 15, 2024: https://www.hud.gov/sites/dfiles/PIH/documents/Faircloth%20List_10-15-23_FINAL2.xlsx.

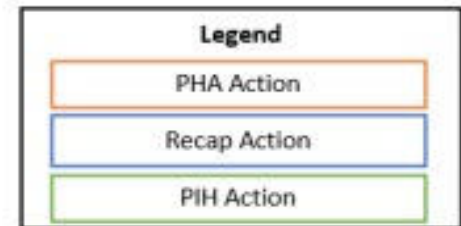
Developer Perspective: Where and Why We are Using Restore-Rebuild

- In place of traditional Mixed-Finance (ACC/LIHTC) development, in partnership with PHA
- Tool to “federalize” state public housing
- Alternative option to access project-based rental assistance
 - ...and maybe PHA capital funds

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.



NOTICE OF ANTICIPATED RAD RENTS

1 “Subject to the conditions enumerated in this letter... the Department will issue a Commitment to Enter Into a Housing Assistance Payment Contract”

2 “...the RAD Unit Contract Rents upon the conversion above referenced project will be set as set forth in the attached Exhibit A”

Faircloth-to-RAD Guide

[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.

1 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.

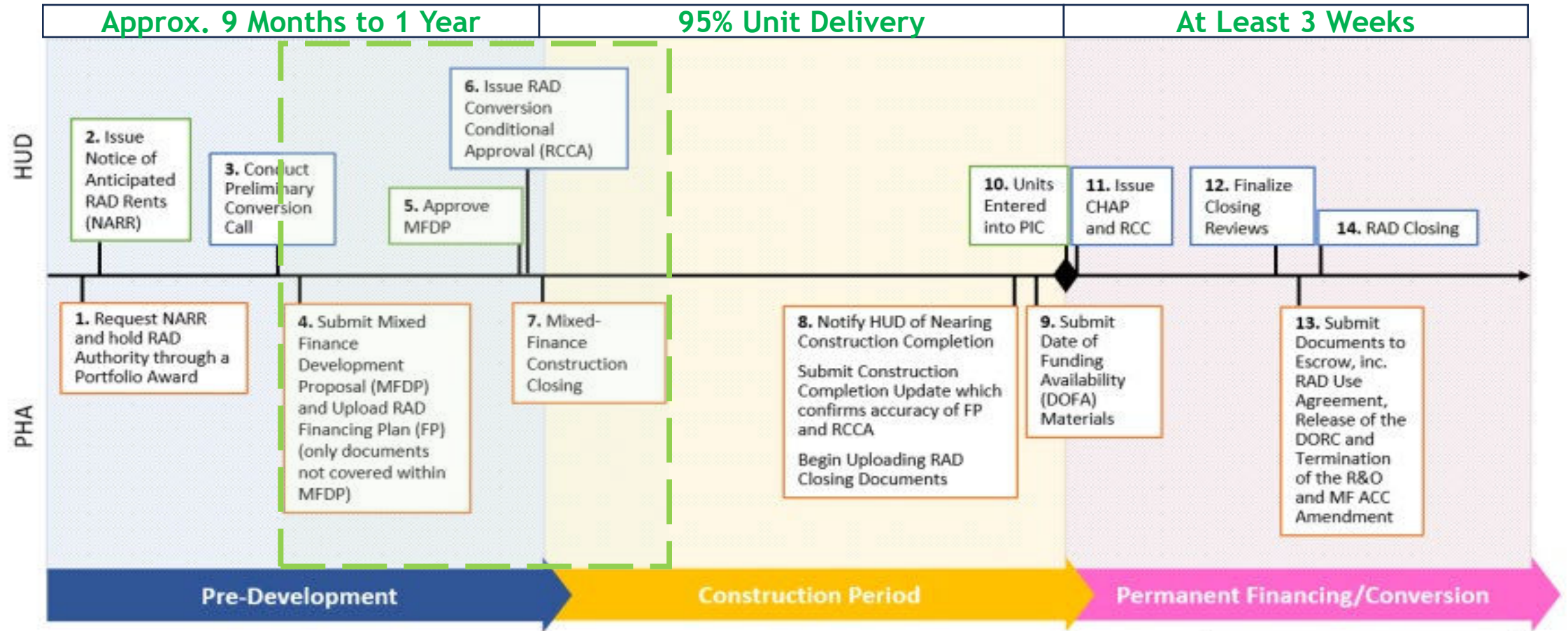
2 Based on the unit mix you have proposed, the RAD unit Contract Rents upon conversion of the above referenced project will be as set forth in the attached Exhibit A.

Rent Levels

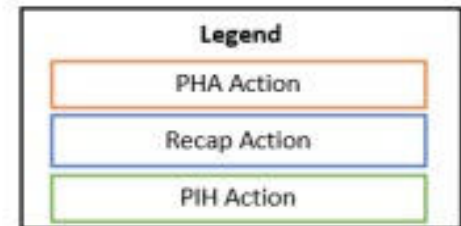


Pershing Place, Chicago, IL
Partnership with the Chicago Housing
Authority,
Granite Development and UJIMA, Inc.

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.



RAD CONVERSION CONDITIONAL APPROVAL

1 “...except as noted in this letter...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.

 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]:

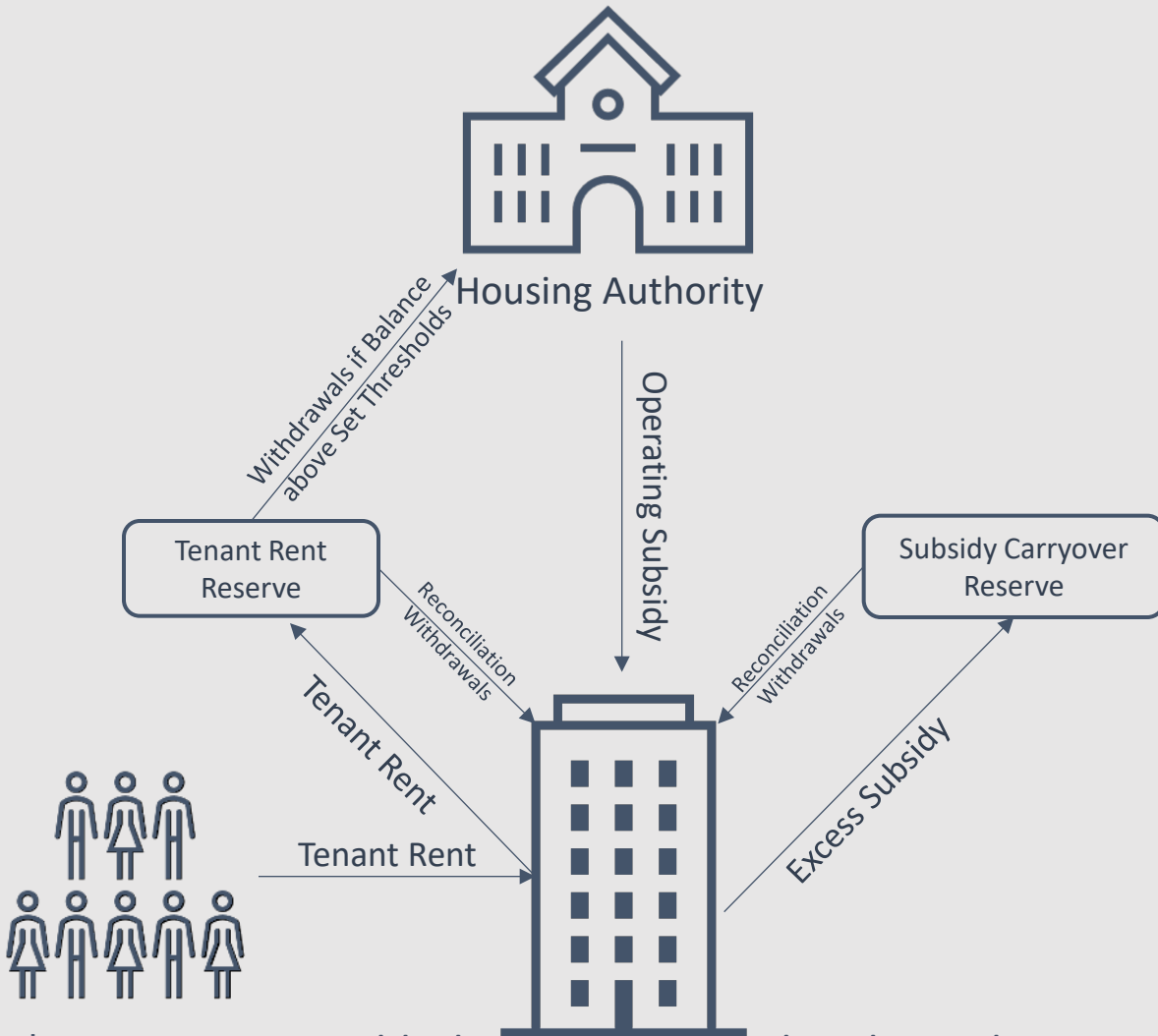
The Department has received your development proposal to create [number] new Public Housing units at the above referenced project (the "Project Units") pursuant to the requirements of 24 C.F.R. Part 905 Subpart F and your request for the subsequent conversion of such newly created Public Housing units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

1 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:

Closing into Mixed Finance*



* Must operate public housing units on breakeven basis. Specific reserve structure may vary by deal and housing authority.

This is a proposed mandatory form document to be required by HUD. This document may not be changed without HUD's prior written approval.

MIXED-FINANCE AMENDMENT TO CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT

REGULATORY AND OPERATING AGREEMENT

This Regulatory and Operating Agreement (this "Agreement"), dated and effective as of _____ is made by and between the Chicago Housing Authority, an Illinois municipal corporation (the "Authority"), and _____, an Illinois limited liability company (the "Owner").

RECITALS

Declaration of Trust/
Restrictive Covenants
HUD-52190

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0075
(exp. 07/31/2026)

Public reporting burden for this collection of information is estimated to average 0.25 hours per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Reports Management Officer, Paperwork Reduction Project, to the Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, DC 20410-3600. When providing comments, please refer to OMB Approval No. 2577-0275. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. HUD will use this information to ensure that PHAs remain seized of the title of public housing projects and other public housing real property and refrain from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering or permitting or suffering any transfer, conveyance, assignment, lease, mortgage, pledge or other encumbrance of said property or any part thereof, appurtenances thereto, or any rent, revenues, income, or receipts therefrom or in connection therewith, or any of the benefits or contributions granted to it by or pursuant to the ACC. This information is required to participate in this HUD program. The information requested does not lend itself to confidentiality.

_____ units of rental
rent to 24 CFR Part 941, Subpart F, to be known
the "Development"). The Owner has agreed to
(Units") in the Development for use as "public
States Housing Act of 1937 (42 USC § 1437, et
sor legislation and all implementing regulations
"Act") during the Term (as hereinafter defined)
Development with a combination of public and
posal submitted jointly by the Authority and the
y LLC and Daniel E. Levin (collectively, the
Housing and Urban Development ("HUD"), for
.608. HUD has provided its written approval of
and the Receiver, as provided in 24 CFR

Annual Contributions
on the United States
go Housing Authority
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roject" or the "Project
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umber is dedicated for
his Mixed Finance

This document may not be changed without HUD's prior written approval.

DECLARATION OF TRUST/RESTRICTIVE COVENANTS

THIS DECLARATION OF TRUST/RESTRICTIVE COVENANTS (the "Declaration") is made and entered into as of this _____ day of _____, 20____ by and between the Chicago Housing Authority, an Illinois municipal corporation (the "Authority"), and if under a Mixed Finance Amendment to the Annual Contributions Contract, then also _____, an Illinois limited liability company (the "Owner"), for the benefit of the United States of America, acting by and through the Secretary of Housing and Urban Development ("HUD").
NOTE: OPTION TO USE FOR ALL PUBLIC HOUSING OR MIXED FINANCE PUBLIC HOUSING - FILL IN PHA OR OWNER ENTITY

WHEREAS, pursuant to the U.S. Housing Act of 1937, as amended, and any successor legislation (the "Act") the Authority and HUD have entered into a Consolidated Annual Contributions Contract ("ACC") number: C-1014 dated December 11, 1995, as the same may be amended from time to time, which provides for grants and annual contributions to be made by HUD to assist the Authority in developing, maintaining, and operating its public housing units in accordance with all applicable public housing requirements (as further defined below); and

NOTE: FILL IN THE LATEST ACC NUMBER ON RECORD

NOTE: COMPLETE ONE OF THE FOLLOWING GROUPS OF PARAGRAPHS: DEVELOPMENT, MODERNIZATION OR MIXED FINANCE (STANDARD OR OPERATING FUNDS ONLY) For Public Housing Development Declaration of Trust (complete these two paragraphs):

WHEREAS, as of the date of execution of this Declaration, the Capital Fund Grant ACC Amendment and ACC cover the low-income housing project located at _____ [8] _____, in the City of _____ [9] _____, County of _____ [10] _____ in the State/Commonwealth of _____ [11] _____ (which, together with any fixtures, rents, revenues, other income, and personalty related to such units and appurtenances shall hereafter collectively be referred to as the "Project") which will provide _____ [12] _____ dwelling units and necessary associated appurtenances;

WHEREAS the Project and acquisition of the site or sites thereof have been assisted with a Capital

y's agreement to ground lease the land upon
to participate in the mixed-finance proposal by
f Capital funds in an aggregate amount of
) and providing an annual operating subsidy
sided") to maintain the affordability of the PHA
and maintain the PHA-Assisted Units as "public
ited States Housing Act of 1937, as may be
e Term of this Agreement. The Owner intends,
rements (as hereinafter defined), to operate and
ified low-income units under Section 42 of the
(), and to further operate and maintain the PHA-
y federal, state and local laws.

units in the Development will be operated as
the Code and the remaining
ket rate units.

to this Agreement in order to set forth the rules
ment of the PHA-Assisted Units and the terms
sided).

nt to Consolidated
/D-53012B) Number:

Conversion to RAD

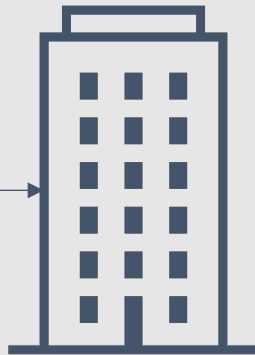


Housing Authority

HAP Subsidy



Tenant Rent



OMB Approval 2502-0612
(Expiration 7/31/2025)

**Rental Assistance Demonstration (RAD)
Conversion Commitment
(Public Housing First Component)**

U. S. Department of Housing and
Urban Development
Office of Multifamily Housing

Public reporting burden for this collection of information is estimated to average 1 hour 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 to apply to the Rental Assistance Demonstration program as authorized by the Consolidated and Further Continuing Appropriations Act of 2012 and subsequent appropriations. Requirements for RAD were established in PIH 2012-32 and subsequent final award. There are no

**Rental Assistance Demonstration
Use Agreement**

OMB Approval No. 2502-0612
(Exp. 7/31/2025)

U.S. Department of Housing and
Urban Development
Office of Housing
Office of Public and Indian Housing

OMB Approval No. 2502-0612
(Exp. 7/31/2025)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

**Rental Assistance Demonstration (RAD)
for the Conversion of Public Housing to the
Section 8 Project-Based Voucher (PBV) Program¹**

PART 1 OF HAP CONTRACT

Public reporting burden for this collection of information is estimated to average 30 minutes 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.

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1. CONTRACT INFORMATION

a. Parties

This housing assistance payments (HAP) Contract is entered into between:

_____ (Contract Administrator)
(CA)² and

_____ (owner).

b. Contents of contract

The HAP Contract consists of Part 1, Part 2, and the Contract exhibits listed in paragraph c.

c. Contract exhibits

The HAP Contract includes the following exhibits:

EXHIBIT A: TOTAL NUMBER OF UNITS IN PROJECT COVERED BY THIS HAP CONTRACT; INITIAL RENT TO OWNER; AND THE NUMBER AND DESCRIPTION OF THE CONTRACT UNITS. (See 24 CFR _____)

¹ This form merges HUD 52530A and HUD 52621

² In Public Housing to PBV conversions, the Contract Administrator will be the Public Housing Agency that executes the HAP Contract with the Owner and administers the voucher funding under the Consolidated Annual Contributions Contract with HUD.

Form HUD-52621A (7/2025) Page 1 of 6 of Part 1

to average 30 minutes 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.

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hereinafter called the "Agreement") is the Department of Housing and Urban Development or its successors, assigns or designates _____ ("Project Owner"), ("HAP") (if Project Owner is not the fee estate.)). This Agreement is a part of the RAD conversion (the Project Owner shall cause this Use Agreement to be recorded on the Conversion Date and in no event later than 30 days after the date specified in this paragraph, recordation required).

Page 1 of 10

Initial award. There are no

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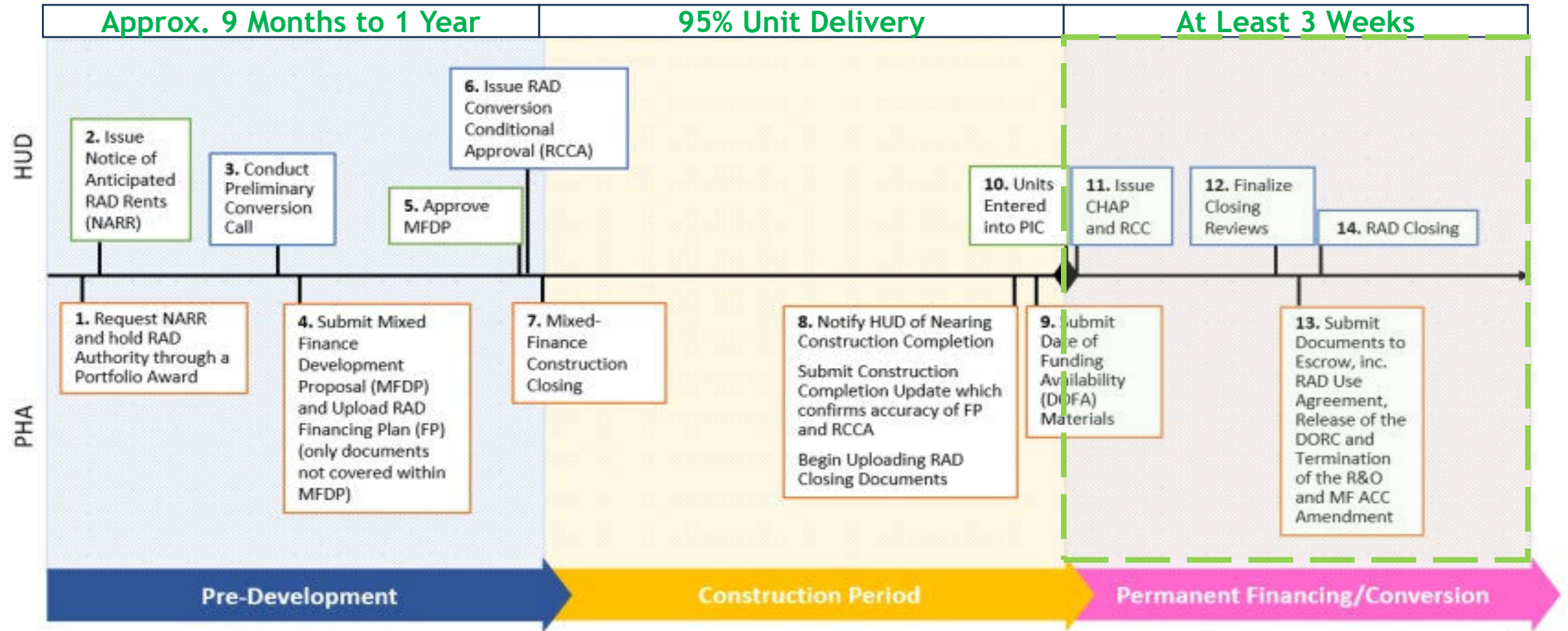
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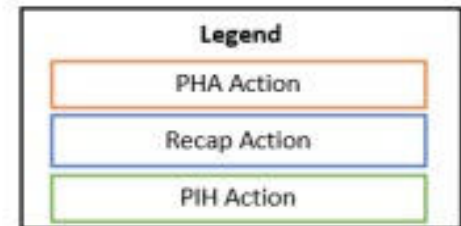
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Page 1

Faircloth to RAD Conversion Process



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Lease-up and Conversion Timing



Pershing Place, Chicago, IL



Rendering of Park Morton, Washington, DC

- 1 ***Introduction to Restore Rebuild***
- 2 ***RAD Part I: Public Housing Projects***
- 3 ***Restore Rebuild***
- 4 ***RAD Resources***

HUD has published extensive materials on RAD that are useful for all parties involved in the RAD process

- Applicable HUD Notices:
 - RAD Implementation Notice: H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration REV-4
 - Fair Housing, Civil Rights, and Relocation Notice: H 2016-17; PIH 2016-17 (HA)
- HUD Website: <https://www.hud.gov/rad>
- RAD Resource Desk: <http://www.radresource.net/>
- HUD Exchange: <https://www.hudexchange.info/programs/rad/>
- Restore Rebuild Guidance: https://www.hud.gov/sites/dfiles/Housing/documents/Restore-Rebuild_Guide_11-2024.pdf