

November 1, 2018

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

Approval to enter into a Project Based Voucher (PBV) Contractual Agreement for Housing Assistance Payments (AHAP) with Pleasant Street Housing LLC

Purpose/Outcomes	Approval to enter into a AHAP Contract for 24 PBVs units at Pleasant Avenue Veteran Housing Project
Dollar Amount and Fiscal Impact	\$229,632 maximum per year \$4,592,640 maximum total over 20 years
Funding Source	U.S. Department of Housing and Urban Development Funds No County General Funds used
Duration	November 1, 2018 – October 31, 2038
Previous Board Action	The Housing Authority of Clackamas County Board of Commissioners approved Development Services Agreement on August 16, 2018
Strategic Plan Alignment	1. Sustainable and affordable housing 2. Ensure safe, healthy and secure communities
Contact Person	Chuck Robbins - Executive Director, Housing Authority 503-650-5666
Contract No.	N/A

BACKGROUND:

The Housing Authority of Clackamas County (HACC), a Division of Health, Housing and Human Services Department, requests approval to enter into a Housing Assistance Payment (AHAP) Contract with Pleasant Street Housing LLC to complete the award of 24 Project Based Vouchers (PBV) for new Veteran supportive housing. HUD requires a two-step process for PBV's to be awarded:

Step 1: Before construction can commence, the Housing Authority must enter an AHAP contract

Step 2: Once construction is complete the AHAP binds the Housing Authority to enter into the official Housing Assistance Payment (HAP) contract for the project based voucher units.

HACC is requesting pre-approval to enter into step one (1) of the AHAP contract, contingent upon HUD approving the subsidy layering review (SLR) for the project. To use PBVs, HUD must review any project's financial proforma and find it meets its cash flow and debt service coverage requirements as well as determine the rents being requested for the units are reasonable. HACC is confident the project will pass this SLR, but HUD has already had the paperwork 45 days and any further delays may cause a delay in the property closing and an increase construction costs as we approach winter season. Therefore, HACC is requesting this pre-approval to sign the AHAP as soon as HUD approves its SLR to avoid any further delays. HACC is then requesting approval to automatically enter into the formal HAP Contract upon completion of construction and approval of occupancy.

On June 13, 2017, NHA submitted a HOME Program application to build 24 one, two and three-bedroom units that are affordable to households below 60% of the area median income. Under the

Housing Opportunity through Modernization Act (HOTMA), HACC was able to invoke its right to conditionally award 24 PBV using this original HOME Program application and award. On August 16, 2018, HACC entered into a Development Services Agreement to acquire the project upon completion.

The AHAP agreement is required to secure PBV's before construction can begin and is needed for closing on the development. Approval to enter into the AHAP contract automatically approves the final award in the HAP Contract as units are completed.

RECOMMENDATION:

Staff recommends the HACC Board approve the execution of the AHAP Contract as soon as HUD completes and approves the subsidy layering review. Additionally, staff recommends the Board authorize Richard Swift, H3S Director, to sign on behalf of the Housing Authority of Clackamas County all documents related to the AHAP and subsequent HAP contract upon construction completion.

Respectfully submitted,

Richard Swift, Director
Health, Housing and Human Services

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

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

**PBV AGREEMENT TO ENTER INTO
HOUSING ASSISTANCE PAYMENTS CONTRACT**

NEW CONSTRUCTION OR REHABILITATION

PART I

This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

1.1 Parties

This Agreement to Enter into Housing Assistance Payments Contract (“Agreement”) is entered into between: Housing Authority of Clackamas County (“PHA”) and

Pleasant Street Housing LLC (“owner”).

1.2 Purpose

The owner agrees to develop the Housing Assistance Payments Contract (“HAP contract”) units to in accordance with Exhibit B to comply with Housing Quality Standards (“HQS”), and the PHA agrees that, upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner of the contract units.

1.3 Contents of Agreement

This Agreement consists of Part I, Part II and the following Exhibits:

EXHIBIT A: The approved owner’s PBV proposal. (Selection of proposals must be in accordance with 24 CFR 983.51.)

EXHIBIT B: Description of work to be performed under this Agreement, including:

- if the Agreement is for rehabilitation of units, this exhibit must include the rehabilitation work write-up and, where the PHA has determined necessary, specifications and plans.
- if the Agreement is for new construction of units, the work description must include the working drawings and specifications.
- any additional requirements beyond HQS relating to quality, design and architecture that the PHA requires.
- work items resulting from compliance with the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205 and the accessibility requirements under section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR 8.22 and 8.23.

EXHIBIT C: Description of housing, including:

- project site.
- total number of units in project covered by this Agreement.
- location of contract units on site.
- number of contract units by area (size) and number of bedrooms and bathrooms.
- services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent to owner.
- utilities available to the contract units, including a specification of utility services to be paid by owner (without charges in addition to rent) and utility services to be paid by the tenant.
- estimated initial rent to owner for the contract units.

EXHIBIT D: The HAP contract.

1.4 Significant Dates

- A. **Effective Date of the Agreement:** The Agreement must be executed promptly after PHA notice of proposal selection to the owner has been given. The PHA may not enter this Agreement with the owner until any required subsidy layering review has been performed and an environmental review has been satisfactorily completed in accordance with HUD requirements.
- B. A project may either be a single-stage or multi-stage project. A single-stage project will have the same Agreement effective date for all contract units. A multi-stage project will have separate effective dates for each stage.

**Single-stage project**

- i. Effective Date for all contract units: 10/01/2018
- ii. Date of Commencement of the Work: The date for commencement of work is not later than 365 calendar days after the effective date of this Agreement.
- iii. Time for Completion of Work: The date for completion of the work is not later than 1095 calendar days after the effective date of this Agreement.

**Multi-Stage Project**

Enter the information for each stage upon execution of the Agreement for the corresponding stage.

STAGE	NUMBER OF UNITS	EFFECTIVE DATE	DATE OF COMMENCEMENT OF WORK	TIME FOR COMPLETION OF WORK

1.5 Nature of the Work

This Agreement is for **New Construction** of units to be assisted by the project-based voucher program.



This Agreement is for **Rehabilitation** of units to be assisted by the project-based voucher program.

1.6 Schedule of Completion

- A. **Timely Performance of Work:** The owner agrees to begin work no later than the date for commencement of work as stated in section 1.4. In the event the work is not commenced, diligently continued and completed as required under this Agreement, the PHA may terminate this Agreement or take other appropriate action. The owner agrees to report promptly to the PHA the date work is commenced and furnish the PHA with progress reports as required by the PHA.
- B. **Time for Completion:** All work must be completed no later than the end of the period stated in section 1.4. Where completion in stages is provided for, work related to units included in each stage shall be completed by the stage completion date and all work on all stages must be completed no later than the end of the period stated in section 1.4.
- C. **Delays:** If there is a delay in the completion due to unforeseen factors beyond the owner's control as determined by the PHA, the PHA agrees to extend the time for completion for an appropriate period as determined by the PHA in accordance with HUD requirements.

1.7 Changes in Work

- A. The owner must obtain prior PHA approval for any change from the work specified in Exhibit B which would alter the design or quality of the rehabilitation or construction. The PHA is not required to approve any changes requested by the owner. PHA approval of any change may be conditioned on establishment of a lower initial rent to owner as determined by PHA in accordance with HUD requirements.
- B. If the owner makes any changes in the work without prior PHA approval, the PHA may establish lower initial rents to owner as determined by the PHA in accordance with HUD requirements.
- C. The PHA may inspect the work during rehabilitation or construction to ensure that work is proceeding on schedule, is being accomplished in accordance with the terms of the Agreement, meets the level of material described in Exhibit B and meets typical levels of workmanship for the area.

1.8 Work Completion

A. Conformance with Exhibit B: The work must be completed in accordance with Exhibit B. The owner is solely responsible for completion of the work.

B. Evidence of Completion: When the work is completed, the owner must provide the PHA with the following:

1. A certification by the owner that the work has been completed in accordance with the HQS and all requirements of this Agreement.
2. A certification by the owner that the owner has complied with labor standards and equal opportunity requirements in the development of the housing. (See 24 CFR 983.155(b)(1)(ii).)
3. Additional Evidence of Completion: At the discretion of the PHA, or as required by HUD, the owner may be required to submit additional documentation as evidence of completion of the housing. Check the following that apply:

A certificate of occupancy or other evidence that the contract units comply with local requirements.

An architect or developer's certification that the housing complies with:

the HQS;

State, local or other building codes;

Zoning;

The rehabilitation work write-up for rehabilitated housing;

The work description for newly constructed housing; or

Any additional design or quality requirements pursuant to this Agreement.

1.9 Inspection and Acceptance by the PHA of Completed Contract Units

- A. Completion of Contract Units: Upon receipt of owner notice of completion of contract units, the PHA shall take the following steps:
 - 1. Review all evidence of completion submitted by owner.
 - 2. Inspect the units to determine if the housing has been completed in accordance with this Agreement, including compliance with the HQS and any additional requirements imposed by the PHA under this Agreement.
- B. Non-Acceptance: If the PHA determines the work has not been completed in accordance with this Agreement, including non-compliance with the HQS, the PHA shall promptly notify the owner of this decision and the reasons for the non-acceptance. The parties must not enter into the HAP contract at this point. However, work deficiencies may be corrected in accordance with Section 1.10 of this Agreement.
- C. Acceptance: If the PHA determines that the work has been completed in accordance with this Agreement, and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

1.10 Acceptance Where Work Deficiencies Exist

- A. If the PHA determines that work deficiencies exist, the PHA shall determine whether and to what extent the deficiencies are correctable, whether the units will be accepted after correction of the deficiencies, and the requirements and procedures (consistent with HUD requirements) for such correction and acceptance of contract units. The PHA shall notify the owner of the PHA's decision.
- B. Completion in Stages: When the units will be completed in stages, the procedures of this section shall apply to each stage.

1.11 Execution of HAP Contract

- A. Time and Execution: Upon acceptance of the units by the PHA, the owner and the PHA execute the HAP contract.

- B. **Completion in Stages:** When the units will be completed in stages, the number and types of units in each stage, and the initial rents to owner for such units, shall be separately shown in the HAP contract for each stage. Upon acceptance of the first stage, the owner shall execute the HAP contract and the signature block provided in the HAP contract for that stage. Upon acceptance of each subsequent stage, the owner shall execute the signature block provided in the HAP contract for such stage.
- C. **Form of HAP contract:** The terms of the HAP contract shall be provided in Exhibit D of this Agreement. There shall be no change in the terms of the HAP contract unless such change is approved by HUD headquarters. Prior to execution by the owner, all blank spaces in the HAP contract shall be completed by the PHA.
- D. **Survival of Owner Obligations:** Even after execution of the HAP contract, the owner shall continue to be bound by all owner obligations under the Agreement.

1.12 Initial Determination of Rents

- A. The estimated initial rent to owner shall be established in Exhibit C of this Agreement.
- B. The initial rent to owner is established at the beginning of the HAP contract term.
- C. The estimated and initial contract rents for each unit may in no event exceed the amount authorized in accordance with HUD requirements. Where the estimated or the initial rent to owner exceeds the amount authorized under HUD requirements, the PHA shall establish a lower estimated or initial rent to owner (as applicable), in accordance with HUD requirements.

1.13 Uniform Relocation Act

- A. A displaced person must be provided relocation assistance at the levels described in and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and implementing regulations at 49 CFR part 24.
- B. The cost of required relocation assistance may be paid with funds provided by the owner, or with local public funds, or with funds available from other sources. Payment of relocation assistance must be in accordance with HUD requirements.

- C. The acquisition of real property for a project to be assisted under the project-based voucher program is subject to the URA and 49 CFR part 24, subpart B.
- D. The PHA must require the owner to comply with the URA and 49 CFR part 24.
- E. In computing a replacement housing payment to a residential tenant displaced as a direct result of privately undertaken rehabilitation or demolition of the real property, the term “initiation of negotiations” means the execution of the Agreement between the owner and the PHA.

1.14 Protection of In-Place Families

- A. In order to minimize displacement of in-place families, if a unit to be placed under HAP contract is occupied by an eligible family on the proposal selection date, the in-place family must be placed on the PHA’s waiting list (if it is not already on the list) and, once its continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized unit in the project.
- B. This protection does not apply to families that are not eligible to participate in the program on the proposal selection date.
- C. The term “in-place family” means an eligible family residing in a proposed contract unit on the proposal selection date.
- D. Assistance to in-place families may only be provided in accordance with HUD requirements.

1.15 Termination of Agreement and HAP Contract

The Agreement or HAP contract may be terminated upon at least 30 days notice to the owner by the PHA or HUD if the PHA or HUD determines that the contract units were not eligible for selection in conformity with HUD requirements.

1.16 Rights of HUD if PHA Defaults Under Agreement

If HUD determines that the PHA has failed to comply with this Agreement, or has failed to take appropriate action, to HUD’s satisfaction or as directed by HUD, for enforcement of the PHA’s rights under this Agreement, HUD may assume the PHA’s rights and obligations under the Agreement, and may perform the obligations and enforce the rights of the PHA under the Agreement. HUD will, if it determines that the owner is not in

default, pay annual contributions for the purpose of providing housing assistance payments with respect to the dwelling unit(s) under this Agreement for the duration of the HAP contract.

1.17 Owner Default and PHA Remedies

A. Owner Default

Any of the following is a default by the owner under the Agreement:

1. The owner has failed to comply with any obligation under the Agreement.
2. The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).
3. The owner has committed any fraud or made any false statement to the PHA or HUD in connection with the Agreement.
4. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing assistance program.
5. If the property where the contract units are located is subject to a lien or security interest securing a HUD loan or a mortgage insured by HUD and:
 - A. The owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or
 - B. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with the HUD loan or HUD-insured mortgage.
6. The owner has engaged in any drug-related criminal activity or any violent criminal activity.

B. PHA Remedies

1. If the PHA determines that a breach has occurred, the PHA may exercise any of its rights or remedies under the Agreement.

2. The PHA must notify the owner in writing of such determination. The notice by the PHA to the owner may require the owner to take corrective action (as verified by the PHA) by a time prescribed in the notice.
3. The PHA's rights and remedies under the Agreement include, but are not limited to: (i) terminating the Agreement; and (ii) declining to execute the HAP contract for some or all of the units.

C. PHA Remedy is not Waived

The PHA's exercise or non-exercise of any remedy for owner breach of the Agreement is not a waiver of the right to exercise that remedy or any other right or remedy at any time.

1.18 PHA and Owner Relation to Third Parties

A. Selection and Performance of Contractor

1. The PHA has not assumed any responsibility or liability to the owner, or any other party for performance of any contractor, subcontractor or supplier, whether or not listed by the PHA as a qualified contractor or supplier under the program. The selection of a contractor, subcontractor or supplier is the sole responsibility of the owner and the PHA is not involved in any relationship between the owner and any contractor, subcontractor or supplier.
 2. The owner must select a competent contractor to undertake rehabilitation or construction. The owner agrees to require from each prospective contractor a certification that neither the contractor nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in contracts by any Federal department or agency or the Comptroller General. The owner agrees not to award contracts to, otherwise engage in the service of, or fund any contractor that does not provide this certification.
- B. Injury Resulting from Work under the Agreement: The PHA has not assumed any responsibility for or liability to any person, including a worker or a resident of the unit undergoing work pursuant to this Agreement, injured as a result of the work or as a result of any other action or failure to act by the owner, or any contractor, subcontractor or supplier.

- C. **Legal Relationship:** The owner is not the agent of the PHA and this Agreement does not create or affect any relationship between the PHA and any lender to the owner or any suppliers, employees, contractor or subcontractors used by the owner in the implementation of the Agreement.
- D. **Exclusion of Third Party Claims:** Nothing in this Agreement shall be construed as creating any right of any third party (other than HUD) to enforce any provision of this Agreement or the HAP contract, or to assert any claim against HUD, the PHA or the owner under the Agreement or the HAP contract.
- E. **Exclusion of Owner Claims against HUD:** Nothing in this Agreement shall be construed as creating any right of the owner to assert any claim against HUD.

1.19 PHA-Owned Units

Notwithstanding Section 1.18 of this Agreement, a PHA may own units assisted under the project-based voucher program, subject to the special requirements in 24 CFR 983.59 regarding PHA-owned units.

1.20 Conflict of Interest

- A. **Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials**
 - 1. No present or former member or officer of the PHA (except tenant-commissioners), no employee of the PHA who formulates policy or influences decisions with respect to the housing choice voucher program or project-based voucher program, and no public official or member of a governing body or State or local legislator who exercises functions or responsibilities with respect to these programs, shall have any direct or indirect interest, during his or her tenure or for one year thereafter, in the Agreement or HAP contract.
 - 2. HUD may waive this provision for good cause.
- B. **Disclosure**

The owner has disclosed to the PHA any interest that would be a violation of the Agreement or HAP contract. The owner must fully and promptly update such disclosures.

1.21 Interest of Member or Delegate to Congress

No member of or delegate to the Congress of the United States of America or resident-commissioner shall be admitted to any share or part of the Agreement or HAP contract or to any benefits arising from the Agreement or HAP contract.

1.22 Transfer of the Agreement, HAP Contract or Property

A. PHA Consent to Transfer

The owner agrees that the owner has not made and will not make any transfer in any form, including any sale or assignment, of the Agreement, HAP contract or the property without the prior written consent of the PHA. A change in ownership in the owner, such as a stock transfer or transfer of the interest of a limited partner, is not subject to the provisions of this section. Transfer of the interest of a general partner is subject to the provisions of this section.

B. Procedure for PHA Acceptance of Transferee

Where the owner requests the consent of the PHA for a transfer in any form, including any sale or assignment, of the Agreement, the HAP contract or the property, the PHA must consent to a transfer of the Agreement or HAP contract if the transferee agrees in writing (in a form acceptable to the PHA) to comply with all the terms of the Agreement and HAP contract, and if the transferee is acceptable to the PHA. The PHA's criteria for acceptance of the transferee must be in accordance with HUD requirements.

C. When Transfer is Prohibited

The PHA will not consent to the transfer if any transferee, or any principal or interested party is debarred, suspended subject to a limited denial of participation, or otherwise excluded under 2 CFR part 2424, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

1.23 Exclusion from Federal Programs

A. Federal Requirements

The owner must comply with and is subject to requirements of 2 CFR part 2424.

B. Disclosure

The owner certifies that:

1. The owner has disclosed to the PHA the identity of the owner and any principal or interested party.
2. Neither the owner nor any principal or interested party is listed on the U.S. General Services Administration list of parties excluded from Federal procurement and nonprocurement programs; and none of such parties are debarred, suspended, subject to a limited denial of participation or otherwise excluded under 2 CFR part 2424.

1.24 Lobbying Certifications

A. The owner certifies, to the best of owner's knowledge and belief, that:

1. No Federally appropriated funds have been paid or will be paid, by or on behalf of the owner, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of the Agreement or HAP contract, or the extension, continuation, renewal, amendment, or modification of the HAP contract.
2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Agreement or HAP contract, the owner must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. This certification by the owner is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

1.25 Subsidy Layering

A. Owner Disclosure

The owner must disclose to the PHA, in accordance with HUD requirements, information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is made available or is expected to be made available with respect to the contract units. Such related assistance includes, but is not limited to, any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

B. Limit of Payments

Housing assistance payments under the HAP contract must not be more than is necessary, as determined in accordance with HUD requirements, to provide affordable housing after taking account of such related assistance. The PHA will adjust in accordance with HUD requirements the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

1.26 Prohibition of Discrimination

A. The owner may not refuse to lease contract units to, or otherwise discriminate against, any person or family in leasing of a contract unit, because of race, color, religion, sex, national origin, disability, age or familial status.

B. The owner must comply with the following requirements: The Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100 *et seq.* ; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and implementing regulations at 24 CFR part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.* ; 24 CFR part 8; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–

1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

- C. The PHA and the owner must cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and all related rules and regulations.

1.27 PHA and HUD Access to Premises and Owner Records

- A. The owner must furnish any information pertinent to this Agreement as may be reasonably required from time to time by the PHA or HUD. The owner shall furnish such information in the form and manner required by the PHA or HUD.
- B. The owner must permit the PHA or HUD or any of their authorized representatives to have access to the premises during normal business hours and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the owner to the extent necessary to determine compliance with the Agreement.

1.28 Notices and Owner Certifications

- A. Where the owner is required to give any notice to the PHA pursuant to this Agreement, such notice shall be in writing and shall be given in the manner designated by the PHA.
- B. Any certification or warranty by the owner pursuant to the Agreement shall be deemed a material representation of fact upon which reliance was placed when this transaction was entered into.

1.29 HUD Requirements

- A. The Agreement and the HAP contract shall be interpreted and implemented in accordance with all statutory requirements, and with all HUD requirements, including amendments or changes in HUD requirements. The owner agrees to comply with all such laws and HUD requirements
- B. HUD requirements are requirements that apply to the project-based voucher program. HUD requirements are issued by HUD Headquarters as regulations, Federal Register notices or other binding program directives.

1.30 Applicability of Part II provisions – Check all that apply

- Training, Employment and Contracting Opportunities
Section 2.1 applies if the total of the contract rents for all units under the proposed HAP contract, over the maximum term of the contract, is more than \$200,000.
- Equal Employment Opportunity
Section 2.2 only applies to construction contracts of more than \$10,000.
- Labor Standards Requirements
Sections 2.4, 2.8 and 2.10 apply when this Agreement covers nine or more units.
- Flood Insurance
Section 2.11 applies if units are located in areas having special flood hazards and in which flood insurance is available under the National Flood Insurance Program.

EXECUTION OF THE AGREEMENT

PUBLIC HOUSING AGENCY

Name (Print) Richard Swift for Housing Authority of Clackamas County

By: _____
Signature of Authorized Representative

Official title (Print): Director of Clackamas County Health, Housing and Human Services

Date: _____

OWNER

Name (Print) Trell Anderson of Pleasant Street Housing LLC

By: Trell Anderson
Signature of Authorized Representative

Official Title (Print): Authorized Representative

Date: 9/25/18

November 1, 2018

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

Adoption of the Housing Authority of Clackamas County's
Cash Management and Investment Policy

Purpose/Outcomes	Approval of the Housing Authority of Clackamas County's Cash Management and Investment Policy
Dollar Amount and Fiscal Impact	No fiscal impact
Funding Source	U.S. Department of Housing and Urban Development (HUD) No County General Funds are involved.
Duration	November 1, 2018 until amended
Previous Board Action	None
Strategic Plan Alignment	1. Efficient & effective services 2. Build Public Trust through good government
Contact Person	Chuck Robbins, Executive Director, Housing Authority 503-650-5666
Contract No.	N/A

BACKGROUND:

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval of the HACC Cash Management and Investment Policy and procedure.

The Annual Contributions Contract (ACC) requires HACC to deposit and invest all program funds for projects under an ACC in accordance with the terms of a General Depository Agreement. The General Depository Agreement must be in a form approved by HUD and is executed between the HACC and the depository. In addition, the ACC requires HACC to invest Federal Program monies only in HUD approved investments as outlined in the Cash Management and Investment Policy.

The adoption of this policy will have no financial impact on the County or HACC.

RECOMMENDATION:

Staff recommends that the Board approve and authorize the Housing Authority of Clackamas County's Cash Management and Investment Policy, effective November 1, 2018.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

HOUSING AUTHORITY OF CLACKAMAS COUNTY

Cash Management and Investment Policy and Procedures

Purpose

The Housing Authority of Clackamas County ("HACC" or "HA") follows PIH Notice 96-33 for governing cash management and approved investment instruments.

Background

The Annual Contributions Contract (ACC) requires HACC to deposit and invest all program funds for projects under an ACC in accordance with the terms of a General Depository Agreement. The General Depository Agreement must be in a form approved by HUD and is executed between the HA and the depository. In addition, the ACC requires HACC to invest Federal Program monies only in HUD approved investments.

General Depository Agreement

The General Depository Agreement (Form HUD-51999) shall be executed by the HA and the depository. The depository must be a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Share Insurance Fund (NCUSIF). An original HUD-51999 should be maintained by the HA and the financial institution. A copy of the HUD-51999 should be sent to the HUD Area Office and the Field Accounting Office (along with the SF-1199A).

Collateralization of Deposits

HACC is required to continuously and fully (100%) secure all deposits regardless of type (i.e. regular, savings, etc.) that are in excess of the insured amount. This may be accomplished by the pledging or setting aside collateral of identifiable U.S. Government securities as prescribed by HUD. HACC has possession of the securities (or HACC will take possession of the securities) or an independent custodian (or an independent third party) holds the securities on behalf of HACC as a bailee (evidenced by safe keeping receipt and a written bailment for wire contract) and will be maintained for the full term of the deposit. Such securities shall be owned by the depository and the manner of collateralization shall provide HACC with a continuing perfected security interest for the full term of the deposit in the collateral in accordance with applicable laws and Federal regulations. Such collateral shall, at all times, have a market value at least equal to the amount of the deposits so secured.

Investment of Funds

Funds Available for Investment include: (1) funds for current transaction purposes, (2) development and/or modernization funds (see below), (3) funds exceeding those necessary for the daily operation of the HA which are considered available for investment and (4) any operating reserve funds. As a general rule, the average amount on deposit in the General Fund cash accounts (the targeted maximum cash balance) should be the amount needed on hand for transaction purposes or as a safeguard against cash shortages. In the interest of good cash management, non-interest bearing deposits should be reduced to the amount necessary to maintain a good banking relationship.

Under the Modernization and Development Programs, the term "cash management" also means minimizing the time elapsing between the drawdown and disbursement of funds by HACC. HUD has established the maximum time to be generally three working days. Therefore, reference to "excess funds" also means the amount of modernization or development funds drawn down, but not needed for immediate disbursement. Interest income earned on modernization funds is included as operating income in the calculation of operating subsidy eligibility under the Performance Funding System (PFS). Interest income earned on development funds is credited to the development program and reduces the development cost of the project.

Approved Investment Securities

In most cases, purchases of securities shall have maturities which coincide with expected disbursements by HACC. For the purpose of investing operating reserves, issues shall be limited to maturities three years or less. Although some of the following securities have maturities longer than three years, they can be traded in the secondary market. A list of investments approved by HUD for the investment of HACC funds is attached. HACC is required to choose from these financial instruments. Within the HUD approved instruments, HACC is permitted to modify their investment policy without prior HUD approvals. The choice of investments from the approved list should be made using the criteria developed herein.

Determination of Investment Type

The determination of the best or appropriate types and mixtures of investments is dependent on several factors. The primary objective is safety. Once that objective is attained, the optimum return on the investment should be consistent with the goals of the cash management program of HACC. The factors that should be taken into account include the following:

- (1) Safety - Safety is achieved through adherence to the list of permitted investments which are backed by the full faith and credit of, or a guarantee of principal and interest by, the U.S. Government, a Government agency or issued by a Government-sponsored agency, coupled with an appropriate maturity date.
- (2) Yield - HACC should strive to achieve the highest yield consistent with the other factors of the investment policy. Tax-exempt securities are not appropriate for investment by a HA because it would not benefit from the tax advantage.
- (3) Liquidity - All investments must be capable of being liquidated on one day's notice. Therefore, no investments may be made which impose a longer notice period for redemption or which are not readily marketable.
- (4) Maturity - Investments should be scheduled to mature when the funds are needed. Sale of securities prior to maturity should be avoided due to the inherent risk. (If the market interest rate increases above the yield on the investment, the market value of the securities will decline.) Investments shall be limited to securities maturing in periods of

up to one year, or such lesser period that coincides with expected disbursements by HACC, but not beyond the current financing cycle. HACC may invest in securities up to three years for the investment of operating reserves.

(5) Amount - The best or most appropriate type of investment depends, to some degree, on the amount available for investment because certain investments require a large initial amount.

(6) Administrative Cost - In choosing an investment, HACC must consider the administrative work involved, particularly with regard to investments of short duration. Substantial amounts can be invested for periods as short as one or two days. However, the administrative costs with small amounts may be greater than the return on the investment, thus would not be justified or cost effective. Administrative costs will be higher with a more frequent turnover of investments and must be taken into account together with the yield and term in determining the optimum investment strategy.

Investment of Funds Held by Fiscal Agents

Funds held by the Fiscal Agent in any trust funds shall be invested in strict accordance with the Resolution establishing such funds. Where the Resolution contains no provision concerning the investment of funds, the funds shall be invested in securities approved for General Fund Investment provided such investment will mature or may be redeemed at the option of the purchaser at not less than the purchase price on or prior to the date such funds are required to be disbursed by the Fiscal Agent. A description of funds established by HACC resolutions authorizing the issues of bonds is attached.

Investment Register

An investment register or other record shall be maintained by HACC or its agent. The register/record shall be maintained in such a manner that a determination can be made as to the amount of investment securities purchased from each fund and at a minimum provide for recording a complete description of investment instrument, date of purchase, purchase price, interest rate, and applicable date of sale or maturity. The investment register/record may also be used to identify the source of funds invested (i.e., modernization or development funds, tenant security deposit funds, operating funds).

Internal Controls

HACC shall implement the following internal controls to assist in controlling investments and preventing loss or misuse.

- (1) Investment transactions shall be authorized by HACC's board and documented in the board minutes.
- (2) Investment documents shall be kept in a safe fire-resistant locked file cabinet, safe deposit box, or other similarly secured location.
- (3) Individuals responsible for custody of securities shall be someone other than an individual maintaining the accounting records.
- (4) Investments shall be maintained in a custodian or trust account.
- (5) Investments shall be in the name of Housing Authority of Clackamas County.
- (6) Investments shall be recorded in detail in an investment ledger.

(7) A system shall be in place to insure that all interest earned is collected and credited to the appropriate HACC records.

(8) Investments shall be reconciled periodically to the detailed record (investment ledger).

Cash Management

A major factor contributing to the success of an investment program is the delegation of responsibility and authority for developing and executing it. HACC will compare the cost of establishing a cash management program in-house (if qualified professional staff are available) to contracting out. If HACC contracts for cash management and investment services, then the organization should have qualified personnel to achieve cost-effectiveness. Commercial banks and savings and loans association offer such services.

Good cash management, which is an objective of management, creates responsibilities for the use of funds. The primary goals of cash management are to assure the availability of cash for transaction needs, preserve the value of cash resources and earn the maximum return on funds until disbursed.

ATTACHMENT A

HUD APPROVED INVESTMENT INSTRUMENTS

1. Direct Obligations of the Federal Government Backed by the Full Faith and Credit of the United States

a. U.S. Treasury Bills

These securities are short-term obligations which a HA or its agent may purchase directly. Treasury Bills with 3- month and 6-month maturities are issued weekly and those with 9-month and 12-month maturities are issued monthly. The minimum denomination is \$10,000. They are issued on a discount basis and are redeemed at par upon maturity.

U.S. Treasury Bills are available for purchase at any time after issuance from investment departments of banks and from dealers in investment securities. Purchases may be made conveniently using the HA's depository bank. Treasury Bills may be acquired by subscription on the issue date from a Federal Reserve Bank or branch in amounts not in excess of \$200,000. Detailed information is contained in the weekly or monthly announcements which may be received regularly upon application to a Federal Reserve Bank or branch.

b. U.S. Treasury Notes and Bonds

These securities are issued periodically by the Treasury Department through Federal Reserve Banks and branches. They are medium to long-term obligations which a HA or its agent can only purchase in the secondary market to assure that they will mature at a date which coincides with scheduled disbursements by the HA. Outstanding issues may be purchased from banks or dealers in investment securities at the market price which on any given day may be more or less than the face amount.

(1) U.S. Treasury Notes

These notes mature in not less than one and not more than 10 years from the issue date and bear interest at fixed rates payable semi-annually.

(2) U.S. Treasury Bonds

These bonds mature after ten years from the issue date and bear interest at fixed rates payable semi- annually. Many issues of bonds are redeemable on call by the Treasury Department before maturity. The yield of such issues usually is computed to the first call date which may be as much as 5 years prior to maturity.

2. Obligations of Federal Government Agencies

a. Federal Financing Bank (FFB)

The Federal Financing Bank is authorized to purchase obligations held by Federal agencies and to issue obligations to the public.

b. Government National Mortgage Association (GNMA), Mortgage- Backed Securities (GNMA I and GNMA II)

The securities, guaranteed by GNMA are issued by an issuer (a GNMA approved mortgage lender). The securities are backed by a pool of government insured or guaranteed mortgages. The holders of the securities receive monthly payments of principal and interest. The minimum denomination issued is \$25,000. The difference in GNMA I and GNMA II is that the GNMA II payment date is on the 20th of the month and the GNMA I payment date is on the 15th; GNMA II uses a central paying agency whereas GNMA I has individual issuers sending checks to investors; and GNMA II has interest rates that vary within a one percent range. The maximum maturity for GNMA I and GNMA II is 30 years, except that GNMA I project loans mature in 40 years.

c. GNMA Participation Certificates

These securities, guaranteed by GNMA, were sold by GNMA as the trustee with various other Federal agencies as trusters. They represent beneficial interest in future payments of principal and interest on mortgage pools. Their maturities range between one and 20 years and the minimum denomination is \$5,000.

d. Maritime Administration Merchant Marine Bonds, Notes, and Obligations

These securities are issued by shipping companies and are backed by the full faith and credit of the U.S. Government. Each issue is further secured by a first preferred ship or fleet mortgage. Maturities and denominations vary.

e. Small Business Administration (SBA), Small Business Investment Corporation (SBIC) Debentures

When authorized by appropriation acts, the SBA may guarantee principal and interest payments on debentures of SBIC. The SBA may also pool these debentures and sell SBA- guaranteed debentures. These issues have maturities of 10 years and are issued in \$10,000 denominations.

f. Tennessee Valley Authority (TVA) Power Bonds and Notes

These securities are secured by a first charge on net power proceeds. Payment of interest and principal on them is ranked ahead of annual payments to the U.S. Treasury. They have been issued in multiples of \$1,000.

3. Securities of Government-Sponsored Agencies

a. Farm Credit Consolidated System-Wide Discount Notes

These notes are the secured joint and several obligations of the Farm Credit System which consists of the Federal Land Banks, the Federal Intermediate Credit Banks, and the Banks for Cooperatives. They are issued in denominations of \$5,000 and maturities are authorized from 5 to 365 days.

b. Federal Farm Credit Banks Consolidated System-wide Bonds

These bonds are the secured joint and several obligations of the Farm Credit Banks. Their issuance supersedes individual bond issues by the Federal Land Banks, the Federal

Intermediate Credit Banks, and the Banks for Cooperatives. They are issued in multiples of \$1,000 for maturities in excess of 13 months and in multiples of \$5,000 for shorter maturities.

c. Federal Home Loan Banks Consolidated Obligations

These securities are the secured joint and several obligations of the Federal Home Loan Banks comprised of:

- (1) Bonds: Bonds which have maturities of one year or more. They are issued in multiples of \$10,000, \$25,000, \$100,000 and \$1,000,000.
- (2) Notes: Notes which have maturities of less than one year. They are issued in multiples of \$10,000, \$25,000, \$100,000 and \$1,000,000.
- (3) Discount Notes: Discount notes which have maturities ranging from 30 to 170 days. They are issued in denominations of \$100,000 and \$1,000,000.

d. FHLMC Mortgage Participation Certificates (PC) (Guaranteed)

These certificates represent undivided interest in specific fixed rate, first lien conventional and residential mortgages. FHLMC provides monthly interest and principal payments. The final payment is the first of the month and year in which the last monthly payment on the last maturing mortgage is scheduled to be paid.

e. FHLMC Collateralized Mortgage Obligations (CMOs)

CMOs are general obligations of FHLMC that are secured by a single pool of conventional mortgages owned by FHLMC. CMOs are issued in several classes with varying stated maturities. Semiannual principal payments are allocated to each class of the CMOs in the order of the stated maturity of each class so that no principal payments are made to holders of a class until classes with an earlier maturity are retired.

f. Federal National Mortgage Association (FNMA) Debentures

These debentures are issued in denominations ranging from \$10,000 and with maturities ranging from 20 to 25 years.

g. FNMA Notes

The minimum investment in these notes is \$50,000 with maturities ranging from 1 to 20 years.

h. FNMA Short-Term Discount Notes

These notes are similar to commercial paper and are tailored to the individual needs of investors. They are sold at published rates with maturities of 30 to 270 days and in denominations ranging from \$5,000.

i. FNMA Capital Debentures

These debentures are subordinated to the non-capital debentures, notes, and short-term discount notes. They were last issued in 1975 in a \$10,000 minimum denomination and with maturities of 5 and 25 years.

j. Student Loan Marketing Associations (SLMA) Obligations

SLMA issues obligations comprises of guaranteed student loans as follows:

(1) Floating Rate and Master Notes.

These notes bear interest at rates that vary with the 91-day Treasury Bill rate. Short-term borrowing have an original or remaining term maturity of one year or less.

(2) The Series E and F Floating Rate Notes.

These notes bear interest at rates which vary with the 91-day Treasury Bill, except that each issue has fixed minimum and maximum rates known as interest rate "collars" for any quarterly interest period.

(3) Zero Coupon Notes

These notes are shown at net proceeds adjusted for accretion of discount.

4. Demand and Savings Deposits

Demand and savings deposits at commercial banks, mutual savings banks, savings and loan associations and credit unions are permitted for HA funds provided that the entire deposit is insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). A deposit in excess of the insurance coverage may be made at a depository institution provided that it is 100 percent collateralized by any of the securities listed under paragraphs 1, 2, and 3 of this Attachment. Care should be taken that withdrawals may be made on demand without loss of interest and without penalty.

5. Money-Market Deposit Accounts

Money-Market Deposit Accounts at depository institutions that may not be insured fully by the FDIC or NCUSIF are permitted provided that the certificates are fully backed by 100 percent collateral consisting of securities listed under paragraphs 1, 2, or 3 of this Attachment. When accounts exceed the \$100,000 insurance limitation, their safety also may depend on the HA's control of the underlying collateral which must consist of clearly identified (not pooled) U.S. Government securities. Possession of the collateral securities and a continuous perfected security interest may be the only sure protection against loss in case of financial institution failure.

6. Municipal Depository Fund

A Municipal Depository Fund (Fund) or Local Government Investment Pool which is established by States, municipalities, units of local government or other political subdivisions to serve as an investment fund for HAs is permitted. The securities purchased by a Fund shall be on the HUD-approved list of investment securities. HA shall have either an undivided or divided interest in securities comprising the Fund. The Fund shall be under the control of the Investment Company Act of 1940, and its objective shall be clearly stated. The investment objective of the Fund shall be to obtain as much income as possible consistent with the preservation and conservation of capital. The Fund shall disclose clearly the basis of earnings and how they are distributed. HA shall obtain a statement of potential default and risk and a clear demonstration that withdrawals from the Funds will not be so restricted as to impair a HA's day-to-day cash management

needs. The management fee shall be fixed at a reasonable amount and management shall be passive. HA shall limit the amount of funds invested in the Fund to no more than 30 percent of a HA's available investment funds. The Fund shall disclose the relationships of the investment advisor, manager, trustees, custodian and transfer agent. Each financial advisory relationship shall be evidenced by a written document executed prior to, upon, or promptly after the inception of the financial advisory relationship, or promptly after the creation or selection of the issuer. If the issuer does exist or has not been determined at the time the relationship commences, that written document shall set forth the basis of compensation for the financial advisory services to be rendered.

7. Super NOW Accounts

Super NOW accounts have been available and approved for public funds since January 1983. They offer a relatively high market rate and are fully transactional (have no limitations on the number of checks or transfers). Insurance and collateral requirements are as above for subparagraph e Demand and Savings Deposits.

8. Certificates of Deposit

a. Certificates of Deposit are permitted at depository institutions that are insured by an agency of the Federal Government. Caution must be exercised for certificates exceeding the \$100,000 insurance limit or when the term is longer than 30-90 days. Although the certificates' rate of return may be attractive for larger amounts and longer terms, U.S. Treasury securities offer superior safety and liquidity for the same amounts and terms. Certificates shall be in the HA's name. In addition a General Depository Agreement must be executed by each financial institution that issues a Certificate of Deposit.

b. Certificate amounts above \$100,000 are permitted provided that the excess is 100 percent collateralized by clearly identified (not pooled) U.S. Government securities. Possession of the collateral securities and a continuous perfected security interest may be the only sure protection against loss in case of bank failure.

c. Brokered deposits should be avoided because it is impossible to get \$100,000 federal insurance on a number of deposits placed by brokers.

9. Repurchase Agreements

Repurchase (repos) agreements for a term not to exceed 30 days may be entered into with Federally insured depository institutions to purchase and sale of securities identified under paragraphs 1, 2, and 3. A repurchase agreement is an agreement negotiated with a bank usually for a short period (1 to 7 days) wherein securities approved for investment are purchased from that bank at a stated price with the bank agreeing to repurchase them on a specified date for a specified amount. The minimum may vary, although it is usually \$100,000. There are three main types: (1) fixed term, where both parties are bound to the negotiated time period, (2) demand, where the agreement stays in effect until terminated by either party, and (3) day-to-day, where daily renewal is by mutual consent and 24-

hour notice is required for termination. The HA should review existing and future repos for compliance with the following certifications. Prior approval by HUD is not necessary, however, the repos seller depository or its agency must provide a written certification to HUD, Assistant Secretary for Public and Indian Housing (Office of Finance and Budget), the Area Office, and to the HA.

- a. that the depository's repo program complies with applicable Federal and State statutes and regulations and that the program does not involve sales or loans of Federal securities by securities dealers that are not regulated or that report to the Federal Reserve Board;
- b. that the depository owns the underlying Federal securities (approved for repurchase under HUD guidelines) when the repo interest is sold and that the value of the securities is equal to or greater than the amount the HA pays for the repo;
- c. that the HA has possession of the securities (or the HA will take possession of the securities) or an independent custodian (or an independent third party) holds the securities on behalf of the HA as a bailee (evidenced by a safe keeping receipt and a written bailment for hire contract), from the time the repo interest is sold to the HA and will be (or is expected to be) maintained for the full term of the repo;
- d. that the repo agreement and any related documents identify specific Federal securities related to the specific repo purchased by the HA;
- e. that the repo interest does not represent any interest in a pool or fund of Federal securities for which registration under the Investment Company Act of 1940 may be required;
- f. that the HA will have a continuous perfected security interest in the underlying Federal securities under State or Federal law for the full term of the repo (disclosing the method by which perfection has or will be accomplished, i.e., by possession, filing, registration of book-entry securities and/or Federal preemption of State law by Federal regulation);
- g. that the depository or a reporting dealer selling the repo has not received any adverse financial report from a credit reporting agency, State or Federal regulatory agency; and
- h. that the depository will not substitute other securities as collateral, except to increase the value of the repo security to match the repos's purchase price.

10. Sweep Accounts

Sweep Accounts is a contractual agreement between a bank and a HA which provides that the bank will regularly "sweep" or transfer any available collected balances from the HA's account into repurchase agreements. The Sweep Accounts agreement shall include all the certification provided in the Repurchase Agreement and adherence to paragraph 4-3, Collateralization of Deposits.

11. Separate Trading of Registered Interest and Principal of Securities

Separate Trading of Registered Interest and Principal of Securities (STRIPS) are Treasury-based zero-coupon securities which consist of interest or principal on U. S. Treasury securities. STRIPS were issued in minimum increments of \$1,000. STRIPS pay no interest until maturity and the rate of return is "locked in" at the time of purchase. The delivery of STRIPS is accomplished by wire transfer through the Federal Reserve book entry system. STRIPS shall be in the name of the HA.

12. Mutual Funds

A Mutual Fund (Fund) is an investment company that makes investments on behalf of individuals and institutions. The Fund pools the money of the investors and buys various securities that are consistent with the Fund's objective.

a. Mutual Fund Criteria: The Fund shall be organized as a no-load, open-end, diversified management company and its shares shall be registered under the Securities Act of 1933. The Fund shall be under the control of the Securities Exchange Act of 1934, Investment Advisers Act of 1940 and the Investment Company Act of 1940. The investment objective of the Fund shall be to obtain as much income as possible consistent with the preservation, conservation and stability of capital. The mutual fund objective cannot be changed without the prior approval of fund shareholders.

b. The securities purchased by the Fund shall be on the HUD-approved list of investment securities. The Fund will not engage in options or financial futures. The HA shall limit the amount of funds invested in the Fund to no more than 20 percent of the HA's available investment funds. The Fund shall disclose clearly the basis of earnings and how they are distributed. The HA shall obtain a statement of potential default and risk. The HA's invested funds shall be accessible to the HA daily. It shall be demonstrated that any limitations on withdrawals will not impair the HA's day-to-day cash management needs.

c. The management fee shall be fixed at a reasonable amount. The Fund shall disclose the relationships of the investment advisor, manager, trustee, custodian and transfer agent. The Fund shall clearly state all services (such as wire transfers and check writing privileges) and charges. d. Investment in the Fund shall be authorized by a Board Resolution. A certified copy of the resolution shall accompany the initial application for the Fund.

e. The Fund (or custodian) and the HA shall sign the General Depository Agreement, HUD-51999 dated June 1991, modified as follows:

(1) In the title, "(Mutual Fund)" shall be added after General Depository Agreement. Whenever "depository" appears in the text it also refers to "mutual fund."

(2) The HA's name and location (including county or city) will be filled in the first clause of the General Depository Agreement. The name, location and the HA's mutual fund

account number also will be filled in the first clause. The second clause remains unchanged.

(3) The third clause is substituted as follows: "Whereas, under the terms of the Contract the HA shall invest in a mutual fund (herein called the depository) only on the terms set forth hereafter. Mutual fund is defined as an investment company that makes investments on behalf of individuals and institutions. The depository shall be organized as a no-load, open-end, diversified management company and its shares shall be registered under the Securities Exchange Act of 1933. The depository shall be under the control of the Securities Exchange Act of 1934, the Investment Advisers Act of 1940 and the Investment Company Act of 1940. HA shall acquire shares in a mutual fund whose portfolio includes only securities on the HUD-approved list of investment securities."

(4) Paragraphs 1, 3, 11 and 12 are deleted.

(5) Paragraphs 4 through 6 are modified to read as follows:

(a) Paragraph 4: Any shares purchased from HA funds shall be held by the depository in safe-keeping for the HA until sold. Dividends and distributions on such shares and the proceeds from the sale thereof shall be used to purchase additional shares or remitted directly to the HA.

(b) Paragraph 5: The language "from said Accounts" is deleted.

(c) Paragraph 6: The language "in respect of the Accounts" is deleted.

(d) Paragraphs 7 through 10 are not changed.

(e) The additional language can be typed on a separate page, attached and duly executed. The following language shall be added to the bottom of the page: Page number incorporated in and made a part of the General Depository Agreement between (HA) and (Depository).

ATTACHMENT B

INVESTMENT OF FUNDS HELD BY HA FISCAL AGENTS

Description of Funds

The funds established by HA resolutions authorizing the issuance of bonds to finance the development cost of projects are as follows:

(1) Debt Service Fund

This Fund is established pursuant to the Annual Contributions Contracts and HA Resolutions providing for the issuance of new HA bonds. The Fiscal Agent is explicitly required under the form of the Fiscal Agency Agreement entered into since 1964 to purchase and sell investment securities as the HA, with the approval of the Federal Government, may direct. Where a Fiscal Agency Agreement does not contain a specific requirement for the investment of Debt Service Funds, such investment must, nevertheless, be made since it is a general power and duty of a trustee, (implied if not expressed) to keep funds properly invested in order to attain safety and produce income for the trust funds.

(2) Advance Amortization Fund

(a) Since 1952, the form of Fiscal Agency Agreement in use requires the Fiscal Agent to invest funds on deposit in the Advance Amortization Fund as the HA, with the approval of the Federal Government, may direct. (b) With respect to the investment of funds resulting from a consolidated sale of bonds by an Agency Authority, only the Agency Authority of HUD may issue investment instructions to the Fiscal Agent. These instructions shall be consistent with HUD guidelines.

(3) Annual Contributions Reduction Account (sometimes called Supplementary Revenues Account); Bond Service Account; Series A Reserve Fund; General Bond Reserve Fund; Rental Debt Service Fund; and Excess Lands Account. The Resolution authorizing Series A and Series B Bonds issued prior to 1951 established these funds and the Resolution usually contains limitations on the investment of funds on deposit in one or more of such accounts.