

## Significant Amendment to 2021 and 2022 PHA Plan

### Taylor 1 & 2 converting to Rental Assistance Demonstration (RAD)

The current **2021 Troy Housing Authority Agency Plan** expressed the following: *A demolition application for the units of John P. Taylor Apartment Buildings 1 and 2 (NY012200007P) was approved by the HUD Special Applications Center on December 18, 2009. John P. Taylor Apartments Building 1 and 2 was a family high-rise property consisting of 143 units (17 One-Bedroom units, 75 Two-Bedroom units, 46 Three-Bedroom Units, 1 Four-Bedroom Unit and 4 Units taken off line) within two nine story buildings. The buildings and units have not yet been demolished. ... After careful consideration the Troy Housing Authority is applying to dispose of the units and property of John P. Taylor Apartment Buildings 1 and 2 (NY012200007P), as described above, as part of the redevelopment of this site in collaboration with Pennrose, LLC, the selected developer, as we continue to pursue these various options.*

The proposed and submitted **2022 Troy Housing Authority Agency Plan** expanded on the above with the following: *We are exploring financing and development options to replace these units that may involve RAD Conversion (e.g. a Section 18 and RAD Blend), Choice Neighborhoods, Mixed Finance Modernization or Development as well as various options related to demolition or disposition of the structures and property. We have engaged Pennrose, LLC as our development partner relative to the redevelopment of the entire Taylor Apartments site (Buildings 1, 2, 3, and 4) and they are working with us on various funding options. We are meeting with Taylor tenants and we are incorporating their ideas into our plans to the fullest extent possible.*

The **Troy Housing Authority** is amending its current **2021 PHA Plan** and proposed and submitted **2022 PHA Plan** because it anticipates a successful applicant in the Rental Assistance Demonstration (RAD) program. As a result, the **Troy Housing Authority** will be converting Taylor Apartments 1 & 2 to **Project Based Vouchers** under the guidelines of H 2019-09/PIH 2019-23, REV-4 and any successor Notices and Notice PIH 2021-07 for RAD/Section 18 Blends. Upon conversion to Project Based Vouchers the Authority will adopt the resident rights, participation, waiting list and grievance procedures listed in **Section 1.6 of H 2019-09/PIH 2019-23, REV-4**. These resident rights, participation, waiting list and grievance procedures are appended to this Attachment. Additionally, the Troy Housing Authority certifies that it is currently compliant with all fair housing and civil rights requirements.

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing **Troy Housing Authority** with access to private sources of capital to repair and preserve affordable housing assets. Please be aware that upon conversion, the Authority's Capital Fund Budget will be reduced by the pro rata share of Public Housing Developments converted as part of the Demonstration, and that **Troy Housing Authority** may also borrow funds to address their capital needs. The **Troy Housing Authority** will also be contributing Operating Reserves in the amount \$0 (none available) and Capital Funds in the amount of **\$600,000.00** or more towards the conversion.

All units will convert to PBV (both RAD-PBV and Traditional PBV). These will be administered in accordance with the Troy Housing Authority Administrative Plan which governs our Housing Choice Voucher Program, our RAD units and our PBV units. There are no residents currently living at Taylor 1 & 2.

There is no transfer of assistance planned as part of this conversion.

The Troy Housing Authority is not currently under a voluntary compliance agreement, consent order or consent decree or final judicial ruling or administrative ruling or decision.

The existing Taylor 1 and 2 vacant buildings will be demolished as part of the RAD/Section 18 conversion and the newly constructed 142 units will be developed on the existing site, an area that is undergoing significant revitalization by the Troy Housing Authority, The Sage Colleges, the NYS Department of Transportation and the City of Troy. This will include new market rate units. While these units will be built in an area with a poverty rate greater than 20% there are numerous educational and economic advancement opportunities in the area and the site is located in an Opportunity Zone. . These include the Educational Opportunity Center, the Sage Colleges and numerous employers in Troy's downtown and surrounding area. The site is also accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents. The site is also not in a Census Tract with a minority concentration.

Additionally, through work with our development partner, Pennrose, LLC and their consultants it has been determined that the site is adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets are or will be available to service the site.

This Significant Amendment will be publicly noticed and published on the Troy Housing Authority website for a period of at least 45 days prior to the Public Hearing and reviewed by the Resident Advisory Board.

As a result of this RAD conversion the Troy Housing Authority will no longer have a Capital Fund Program (CFP). Any remaining CFP funds will be used in the demolition and site preparedness of Taylor 1 & 2. The approximately \$400,000.00 per year that the housing authority has received as in CFP funds were incorporated into the contract rents as part of the RAD conversion and the project must fund a component replacement reserve annually to address items needing repair or replacement. There is no Energy Performance Contract (EPC) associated with Taylor 1 & 2.

Below, please find specific information related to the Public Housing Development(s) selected for RAD:

**Development – Taylor Apartments Buildings 1 & 2**

<u>Name of Public Housing Project:</u>	<u>PIC Development ID:</u>	<u>Conversion type (i.e., PBV or PBRA):</u>	<u>Transfer of Assistance:</u>
<b>Taylor Apartments Buildings 1 &amp; 2</b>	<b>NY012200007P</b>	<b>PBV</b>	<b>NO</b>
<u>Total Units:</u>	<u>Pre- RAD Unit Type (i.e., Family, Senior, etc.):</u>	<u>Post-RAD Unit Type if different (i.e., Family, Senior, etc.)</u>	<u>Annual Capital Fund Grant attributable to theProject</u>
<b>143</b>	<b>Family</b>	<b>Family (same)</b>	<b>Appx. \$400,000.00</b>
<b>Bedroom Type</b>	<b>Number of Units Pre-Conversion</b>	<b>Number of Units Post-Conversion</b>	<b>Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.)</b>
Studio/Efficiency	<b>0</b>	<b>0</b>	
One Bedroom	<b>17</b>	<b>46</b>	+29 -Unit Reconfiguration
Two Bedroom	<b>79 (inc. 4 off-line)</b>	<b>87</b>	+7 - Unit Reconfiguration
Three Bedroom	<b>46</b>	<b>8</b>	-38 - Unit Reconfiguration (inc. 1 De Minimus reduction)
Four Bedroom	<b>1</b>	<b>0</b>	-1 - De Minimis Reduction
Five Bedroom	<b>0</b>	<b>0</b>	
Six Bedroom	<b>0</b>	<b>0</b>	
<p>Through the RAD /Section 18 conversion the Troy Housing Authority is proposing to modify the bedroom distribution of the new building to be constructed to better meet the needs of our existing waiting list applicants. Through the RAD / Section 18 Blend 20% of the units (28 1BR) will convert as RAD Project Based Vouchers (PBV) and 80% of the units will be converted to traditional Project Based Vouchers through Section 18 (32 1BR, 87 2BR and 8 3BR). There will also be a de minimis reduction of two units.</p>			

## **Resident Rights, Participation, Waiting List and Grievance Procedures**

**Through converting to PBV the following will apply:**

### **C. PBV Resident Rights and Participation.**

- 1. No Rescreening of Tenants upon Conversion.** This section of PIH 2019-23, REV-4 is not applicable as there are current tenants in Taylor 1 & 2.
- 2. Right to Return.** This section of PIH 2019-23, REV-4 is not applicable as there are current tenants in Taylor 1 & 2.
- 3. Phase-in of Tenant Rent Increases.** This section of PIH 2019-23, REV-4 is not applicable as there are current tenants in Taylor 1 & 2.
- 4. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** This section of PIH 2019-23, REV-4 is not applicable as there are current tenants in Taylor 1 & 2.
- 5. Resident Participation and Funding.** In accordance with Attachment 1B of PIH 2019-23, REV-4, residents of Covered Projects with assistance converted to PBV will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
- 6. Resident Procedural Rights.** The following items must be incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the required tenancy addendum (HUD Form 52530-c), as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.
  - a. Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD and to non-RAD PBV units located at the Covered Project. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be :
    - i. A reasonable period of time, but not to exceed 30 days:
      1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
      2. In the event of any drug-related or violent criminal activity or any felony conviction;
    - ii. Not less than 14 days in the case of nonpayment of rent; and
    - iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
  - b. Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act. For the termination of assistance and several other PHA determinations, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:
    - i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),<sup>40</sup> an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
  - ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
  - iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
  - iv. The Project Owner provides opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

**7. Earned Income Disregard (EID).** This section of PIH 2019-23, REV-4 is not applicable as there are current tenants in Taylor 1 & 2.

**8. Jobs Plus.** Not applicable. Taylor 1 & 2 is not a Jobs Plus development.

**9. When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.<sup>41</sup> In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. The PHA is required to process these individuals through the Form 50058 submodule in PIC. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision. Unless a waiver is requested and approved as described below, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and require a subsidy payment at admission to the program, which means their TTP may not equal or exceed the gross rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to

equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an alternative requirement that the PHA must reinstate the unit after the family has left the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where “floating units have been permitted, Section 1.6.B.10 of the Notice.

A PHA may request a waiver from HUD for the Covered Project in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not made a housing assistance payment for a family in 180 days.

For a Covered Project that consists of 100 percent RAD PBV units, the PHA must demonstrate that a waiver is necessary in order to avoid an undue concentration of poverty at the Covered Project. A PHA may evidence this by providing data showing, for example:

- how eligible income-certified applicants on the waiting list must be passed over because their incomes result in zero HAP at admission causing a higher concentration of poverty at the covered project; or
- how the income of newly admitted families is causing a markedly higher concentration of poverty than the PHA’s non-RAD PBV projects.

The resulting impact on the property must be compared with the concentration of poverty at non-RAD PBV projects in the PHA’s jurisdiction. If there are no non-RAD PBV projects in the PHA’s jurisdiction, the PHA may alternatively demonstrate that the median income of families that could be admitted to the Covered Project is significantly lower than the median income of new admissions from the waiting list to the PHA’s HCV program since the time of the RAD conversion.

For any other Covered Project, the PHA must demonstrate that the property contains specific units (e.g., units suitable for large families or accessible units) for which there are insufficient alternative housing opportunities.

If the waiver is approved, the new admission[s] families covered under the waiver are participants under the program and all of the family obligations and protections under RAD and PBV apply to the family, and the unit is subject to all program requirements. Such waiver requests should be submitted to the PIH Field Office in accordance with Notice PIH 2018-16.

**10. Under-Occupied Unit.** This section of PIH 2019-23, REV-4 is not applicable as there are current tenants in Taylor 1 & 2.

#### **D. PBV: Other Miscellaneous Provisions**

##### **1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration.**

PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work. Please see Appendix IV for reporting units in Form HUD-50058.

**2. Ongoing PHA Board Review of Operating Budget.** The Owner must submit to the administering PHA’s Board the operating budget for the Covered Project annually. The PHA’s Board must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.<sup>42</sup>

**3. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to 1.4.A.13 and 1.4.A.14.

**4. Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:

- a. Transferring an existing site-based waiting list to a new site-based waiting list.
- b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
- c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
- d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project. To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate.

Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).<sup>43</sup> When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the PHA's Emergency Transfer Plan. This includes allowing for easier moves between assisted properties.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the Covered Project in accordance with 24 CFR § 983.251(c). To facilitate the uniform treatment of residents

and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

**5. Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.

**6. Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC but HUD review of liens must be performed prior to execution.

**7. Administrative Fees for Public Housing Conversions During the Year of Conversion.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the “year of conversion”), RAD PBV projects will be funded with public housing funds. For example, if the project’s assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

PHAs operating an HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to “section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998” and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

**8. Choice-Mobility.** One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the PHA’s HCV program becomes PBV assistance, it is possible for most or all of a PHA’s turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing the following alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract

administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

**9. Reserve for Replacement.** The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.

**10. Initial Certifications and Tenant Rent Calculations.** This section of PIH 2019-23, REV-4 is not applicable as there are current tenants in Taylor 1 & 2.

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### **Significant Amendment Definition**

As part of the Rental Assistance Demonstration (RAD), Troy Housing Authority is redefining the definition of a substantial deviation from the PHA Plan to exclude the following RAD-specific items:

- a. The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance;
- b. Changes to the Capital Fund Budget produced as a result of each approved RAD Conversion, regardless of whether the proposed conversion will include use of additional Capital Funds;
- c. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
- d. Changes to the financing structure for each approved RAD conversion.