

Recovery Agreement between the Housing Authority of the City of Milwaukee
and the
United States Department of Housing and Urban Development

This Recovery Agreement (“Agreement”) is entered into between the Housing Authority of the City of Milwaukee (“HACM”), and the United States Department of Housing and Urban Development (“HUD”) as of this 31st day of January, 2025 (the “Effective Date”).

RECITALS

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

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

WHEREAS, HACM received a failing PHAS score of 53 for the fiscal year ending December 31, 2022 (the “2022 PHAS Assessment”) as designated on April 19th, 2024; and

WHEREAS, based on its 2022 PHAS Assessment, HACM has been designated “Troubled” pursuant to section 6(j)(2) of the Act, 42 U.S.C. § 1437d, and 24 C.F.R. part 902, for financial, physical and/or management indicators, or other such deficiencies as HUD has identified; and

WHEREAS, the 2022 PHAS Assessment reflects that the **financial assessment sub-system (FASS)** score for HACM was “Troubled” earning 0 points (of 25); and

WHEREAS, the 2022 PHAS Assessment reflects that **low occupancy rates** at some HACM properties that warrant significant improvements, including Locust Court (WI002000015) at 91% and Lincoln Court (WI002000019) at 93%; and

WHEREAS, the 2022 PHAS Assessment reflects that the **management assessment sub-system (MASS)** score for HACM reflects an excessively high tenant accounts receivable (“TAR”) for some HACM properties including Becher Court (WI002000018), Park Lawn (WI002000007), and Scat Site Hope VI Cherry (WI002000063) received 0 points (out of 5); for fiscal year end December 31, 2022; and

WHEREAS, the 2022 PHAS Assessment reflects failing **physical assessment sub-system (PASS)** scores for some individual HACM properties totaling 111 Exigent Health & Safety deficiencies, including Parklawn (WI002000007): 59c, Milwaukee (WI002000010): 44c, Locust Court (WI002000015): 44c, Scattered Sites North and West (WI002000016): 45c, Highland Homes (WI002000060): 54c, Scattered Sites South (WI002000061): 48c, Scattered Site Hope VI Cherry (WI002000063): 54c, based on scores out of 100 points; and

WHEREAS, the Act requires HUD and each Troubled Public Housing Agency (“PHA”) to enter into a recovery agreement that establishes: performance targets; strategies for meeting targets; and incentives or sanctions for effective implementation of such strategies intended to improve the Troubled PHA’s performance such that the agency is no longer designated Troubled; and

WHEREAS, the parties desire to correct all HUD-identified deficiencies through the implementation of this Agreement.

NOW THEREFORE, in consideration for the obligations contained herein, HUD and HACM agree as follows:

General

1. HACM agrees to strictly comply with all terms of this Agreement, including all performance requirements, outcomes, and deadlines in paragraphs 5 through 7 below (“Performance Requirements”).
2. HUD, in its discretion, may provide technical assistance to HACM, including training or contract support, in order to facilitate accomplishment of the Performance Requirements. However, HACM’s compliance with this Agreement shall not be contingent on HUD’s provision of any technical assistance or other discretionary assistance.
3. HACM must submit Progress Reports to HUD commencing 30 days after execution of the Agreement, and every 60 days thereafter until this Agreement is terminated. Each Progress Report, including any supporting documentation, must describe the status of HACM’s activities such that HUD can adequately monitor HACM’s progress toward the Performance Requirements.
4. Notwithstanding any Performance Requirements, consistent with section 6(j)(3)(B)(ii) of the Act and 24 C.F.R. 902.75(d), and subject to the waivers and alternate requirements under PIH Notice 2021-14 (HA) 11(a) and 12(d), HACM agrees to:
 - a. improve its performance by at least 50% of the difference between the initial PHAS assessment score that led to the Troubled designation and the score necessary to remove the PHA’s Troubled designation by the first released PHAS assessment for fiscal years ending on or after December 31, 2025; and
 - b. improve its performance and achieve an overall PHAS score of at least 60% of the total points available by the next sequential fiscal year PHAS assessment for fiscal years ending on or after December 31, 2026.

Consistent with paragraph 9 below, failure by HACM to comply with the PHAS assessment improvement requirement in this paragraph shall be a basis for HUD to find HACM in substantial default under section 6(j)(3)(A) of the Act.

Performance Requirements

5. **Increase Occupancy.** HACM agrees to:
 - a. For fiscal year ending December 31, 2025, achieve an occupancy rate for the low rent public housing program of at least 96%, calculated by dividing Unit Months Leased (Financial Data Schedule (FDS) line item 11210) by Unit Months Available (FDS line item 11190) for the approved unaudited and approved audited FDS submissions; and

- b. For fiscal year ending December 31, 2026, achieve an occupancy rate for the low rent public housing program of at least 96%, calculated by dividing Unit Months Leased (Financial Data Schedule (FDS) line item 11210) by Unit Months Available (FDS line item 11190) for the approved unaudited and approved audited FDS submissions.

6. **Improve Physical Condition of Dwelling Units.** HACM agrees to:

- a. Prepare updated property management processes, procedures, and plans that address preventative maintenance, work orders, inspections, inventory control, unit turn, and quality control in compliance with federal, state, and local housing codes and submit to HUD for review by deadlines specified in the sustainability plan.
- b. Conduct HUD required annual inspections on all public housing properties to identify all physical deficiencies and develop a plan to cure all deficiencies prior to the next NSPIRE physical inspection of the property by REAC.
- c. Complete a Physical Needs Assessment for all properties by 12/31/2025.
- d. For any development scoring less than 60% on its individual physical inspection included in the next PHAS assessment released for fiscal years ending on or after December 31, 2023 the HACM shall:
 - i. Revise the applicable CFP 5-Year Plan and Annual Budget to incorporate all eligible activities based on capital needs identified in the annual inspections, NSPIRE inspections, Physical Needs Assessment, and HACM's knowledge of current conditions of the property to cure deficiencies by March 31st, 2026 and on an ongoing basis.
 - ii. If the same property receives a subsequent score of less than 60% on the next physical assessment conducted by HUD or its designee for fiscal years ending on or after December 31, 2025, HACM shall be required to assess the feasibility of contracting with a management agent for the operation of those properties. HUD will provide guidance on what should be included in a feasibility analysis and HUD will determine if contracting is required or if HACM will maintain in-house operations of any failing properties. If the PHA moves forward with contracting out the properties that score less than 60, for the next sequential fiscal year's assessment, HACM as the contract administrator will ensure the managing agent increases the physical scores to at least 60% for each of the properties under the contract.

7. **Improve Financial Position of the Agency.** HACM agrees to:

- a. Submit overdue audited financial statements for the fiscal year ending December 31, 2023 within six months following the execution date of this Agreement (unless a different timeframe is approved by HUD in writing); and
- b. For the fiscal year ending December 31, 2024, submit unaudited financial statements no later than 2 months after fiscal year end (FYE), and submit audited financial statements no later than 9 months after FYE; and

- c. For the fiscal year ending December 31, 2025, submit unaudited financial statements no later than 2 months after FYE, and submit audited financial statements no later than 9 months after FYE; and
- d. For the first released PHAS assessment for fiscal years ending on or after December 31, 2025, improve its performance on the FASS sub-indicator to at least 15 out of 25 possible points, or 60%.

Term

- 8. This Agreement begins on the Effective Date and continues until HACM (A) fulfills all Performance Requirements; and (B) improves its performance pursuant to paragraph 4 of this Agreement.

Default and Remedies

- 9. Failure of HACM to strictly comply with the terms of this Agreement, including failure to meet any discrete Performance Requirements, shall constitute a default under this Agreement and shall be a basis for a determination of substantial default by HUD under section 6(j)(3)(A) of the Act.
- 10. In making a determination of substantial default, HUD will do so in compliance with the procedures in 24 C.F.R. 907.5. The notice of substantial default pursuant to 24 C.F.R. 907.5(a) shall constitute the notice of default under this Agreement.
- 11. If HACM is determined to be in substantial default after breaching this Agreement, HUD may seek any available remedy, including any one or several of the following actions consistent with the Act and its implementing regulations:
 - a. Solicit competitive proposals from other PHAs and private housing management agents to manage all or part of HACM 's public housing program and project(s);
 - b. Petition for the appointment of a judicial receiver for HACM;
 - c. Solicit competitive proposals from other PHAs and private entities with experience in construction management to oversee implementation of HACM's public housing Capital Fund;
 - d. Take possession of all or part of HACM, including all or part of its public housing program and project(s);
 - e. Require HACM to make any other arrangements acceptable to HUD, in its full discretion, for managing all or part of the public housing program and project(s).
- 12. Notwithstanding anything in this Agreement, HUD retains its full discretion to exercise any rights available under applicable law, including those in section 6(j) of the Act, to make a determination of substantial default or take any available remedial action against HACM, regardless of HACM's compliance with the terms of this Agreement.

13. HUD's exercise or non-exercise of any available rights or remedies under this Agreement or any applicable law will not be construed as a waiver of HUD's right to exercise that or any right or remedy at any time.
14. This Agreement does not in any way contemplate money damages for breach of this Agreement by HUD.

Modifications, Amendments, and Changed Circumstances

15. This Agreement contains the complete and final expression of the recovery agreement between the parties and supersedes any other oral or written proposals, negotiations, conversations, discussions, or agreements between the parties related to the recovery agreement.
16. This Agreement does not supersede, modify, or amend the ACC between HUD and HACM, or in any way excuse HACM from complying fully with its obligations under the ACC. Nothing contained in this Agreement shall serve to limit, modify, or preclude HUD's right to take any remedial action under the ACC.
17. This Agreement may only be modified or amended by a written instrument signed by all of the parties expressly stating that such instrument is intended to modify or amend this Agreement. Any modification or amendment shall be limited to the provisions of this Agreement specifically referred to therein and shall not be deemed a modification or amendment of any other provision.
18. Modification or amendment of this Agreement shall not constitute a waiver of the applicable statutory or regulatory requirements.
19. Should any provision of this Agreement be determined to be invalid or unenforceable by any statute, regulation, or judicial ruling, such determination shall not affect any other provision of this Agreement to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law. Accordingly, each obligation imposed by this agreement should be construed as severable from the others to the extent it is practicable.
20. The parties shall not be responsible for any failure to implement the terms of this Agreement due to unforeseen and unavoidable circumstances outside of their control, provided that the failure to perform is excused by HUD in writing.
21. To the extent authorized by the Act and HUD regulations, and notwithstanding any other provision of this Agreement, HUD has the total discretion to unilaterally amend this Agreement to address changed factual circumstances affecting the PHA's implementation of this Agreement and, more generally, its programs.

Conflicts

22. In the event of any conflict between the provisions of this Agreement and public housing requirements, including but not limited to the Act, applicable regulations, and the ACC, as those requirements may be amended from time to time, the public housing requirements shall prevail. HUD reserves the right to determine and resolve any such conflict.

No Third-Party Beneficiaries

23. This Agreement confers no rights or remedies upon any person or entity other than HUD or HACM.

Miscellaneous

24. No provision, term, or language contained in this Agreement shall be construed by any Court against HUD for having drafted the agreement. Further, this Agreement shall be read consistently with all applicable federal statutes, regulations, the ACC, or interpretive rule. If the agreement may not be read consistently with a statute, regulation, ACC, or interpretive rule, then the statute, regulation, ACC, or interpretive rule shall control. This Agreement places the exclusive authority with HUD to determine and reconcile any conflict.
25. Any citation of law in this Agreement includes the application of any succeeding law, regulation, ACC, or interpretive rule such as a PIH notice.
26. The parties agree that any cost related to their compliance with this Agreement shall be their individual responsibilities.
27. This Agreement may be executed and delivered in separate counterparts, which, when so executed and delivered, shall be deemed an original.
28. This Agreement may be executed electronically, and electronic signatures must be treated in all respects as having the same force and effect as handwritten or original signatures.
29. HUD and HACM (their employees, subcontractors, partners or assigns) shall comply with all applicable federal, state, and local laws and regulations, as amended from time to time during the term of this Agreement, in the execution of this Agreement.
30. The HACM Board of Commissioners has taken appropriate action to approve entry into this Agreement and will provide a duly executed Board resolution reflecting the same.

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

Signature Page Follows

UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

By: Shirley Wong
Shirley Wong
Public Housing Director
Milwaukee Field Office

HOUSING AUTHORITY OF THE CITY OF
MILWAUKEE

By: Charlotte Hayslett
Charlotte Hayslett
Chair of Board of Commissioners
Housing Authority of the City of Milwaukee

By: Kenneth Barbeau
Kenneth Barbeau
Interim Secretary-Executive Director
Housing Authority of the City of Milwaukee