

**MOORHEAD PUBLIC HOUSING AGENCY**  
**REGULAR MEETING AGENDA**

**October 24, 2017**  
**11:30 AM**  
**Speak Easy Restaurant**

- I. Call to Order and Roll Call
- II. Approval of Minutes
  - A. Request Board Approval of September 26, 2017 Meeting Minutes \_\_\_\_\_
- III. Request Approval for Payment of Bills
  - A. Request Board Approval for Payment of Bills-Resolution 2017-35 \_\_\_\_\_
- IV. Agenda Amendments
- V. Citizens to be Heard
- VI. Other Business
  - A. Monthly Budget Summary \_\_\_\_\_
  - B. Policy Committee Update \_\_\_\_\_
  - C. Executive Director Updates  
Maintenance Technician Position  
Operating Reserves Litigation Update  
Grant Applications  
Core Values \_\_\_\_\_
- VII. Attorney's Report
- VIII. Adjournment

Upon request, accommodations for individuals with disabilities, language barriers, or other needs to allow participation in Moorhead Public Housing Agency meetings will be provided. To arrange assistance, call the City Clerk's office at 218.299.5166 (voice) or 711 (TDD/TTY).



I. CALL TO ORDER AND ROLL CALL

Chairperson McMaster called the Public Housing meeting to order at 11:32 AM.

Members Present: Donna McMaster, Chairperson; Daryl Moede, Resident Commissioner; Terry Braun, Secretary; Greg Lemke, Vice-Chairperson; Michael Carbone, Commissioner; Melissa Fabian, City Council Liaison

Members Absent:

Others Present: Dawn Bacon, Executive Director; Toni Vondal, Housing Manager  
Rebecca Flores, Alesha Bartenhagen – High Rise Residents

II. REQUEST APPROVAL OF AUGUST 22, 2017 REGULAR MEETING MINUTES.

Braun moved, seconded by Moede to approve the Minutes of August 22, 2017. All votes were in favor. Motion Carried.

III. REQUEST APPROVAL FOR PAYMENT OF BILLS-RESOLUTION 2017-28.

Lemke moved, seconded by Moede to approve the payment of bills as presented. All votes were in favor. Motion Carried.

IV. AGENDA AMENDMENTS

None

V. CITIZENS TO BE HEARD

Rebecca – Blue recycle totes for apartments  
Alesia – Safety concerns with the doors

VI. BUSINESS

A. Annual Board Election of Officers – Resolution 2017-29

Greg Lemke was elected Chairperson  
Michael Carbone was elected Vice-Person  
Terry Braun was elected Secretary

All votes were in favor. Motion Carried.

B. Request Board Approval for Flat Rent Revisions – Resolution 2017-30

Braun moved, seconded by Moede to approve Flat Rent Revisions. All votes were in favor. Motion Carried.

C. Request Board Approval for Van Purchase – Resolution 2017-31.

Braun moved, seconded by Moede to approve van purchase. All votes were in favor. Motion Carried.

D. Request Board Approval for Transitional Apartment Rental Rates – Resolution 2017-32.

Moede moved, seconded by McMaster to approve transitional apartment rates. All votes were in favor. Motion Carried.

E. Request Board Approval for Write off of Debts Owed – Resolution 2017-33.

Braun move, seconded by McMaster to approve writing off debts owed. All votes were in favor.

F. Request Board Approval for Application to HUD for ROSS Grant – Resolution 2017-34.

Moede moved, seconded by Braun to approve application to HUD for ROSS grant. All votes were in favor. Motion Carried.

VII. OTHER BUSINESS:

A. Monthly Budget Summary

B. Executive Director Updates (Informational Only)

1. REAC Inspection
2. Maintenance Technician Position
3. Reminder of October Core Values Sessions

VII. ATTORNEY'S REPORT

None

IX. ADJOURNMENT:

There being no further business to discuss, the meeting adjourned at 12:14 PM.

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Greg Lemke – Chairman

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Terry Braun – Secretary

**CHECK REQUEST TOTALS**

**PREPARED: October 19, 2017**

**PAID IN: September and October 2017**

	TOTAL AMOUNT	CHECK NUMBERS
PHA	\$ 43,650.79	11396-11455
PHA- Direct Deposit	\$18,113.22 (2 payrolls)	229-238
CAPITAL FUND	\$0	
AMHSIP	\$10,560.29	43667-43690
BRIDGES	\$ 12,427.24	53080-53109
BCOW	\$8,314.30	72964-72984
<b>TOTAL</b>	<b>\$93,065.84</b>	

\*Note: the September 2017 Direct Deposit check numbers should have stated 211-228. They stated 211-216 in error.

**BANK TRANSFERS made between funds:**

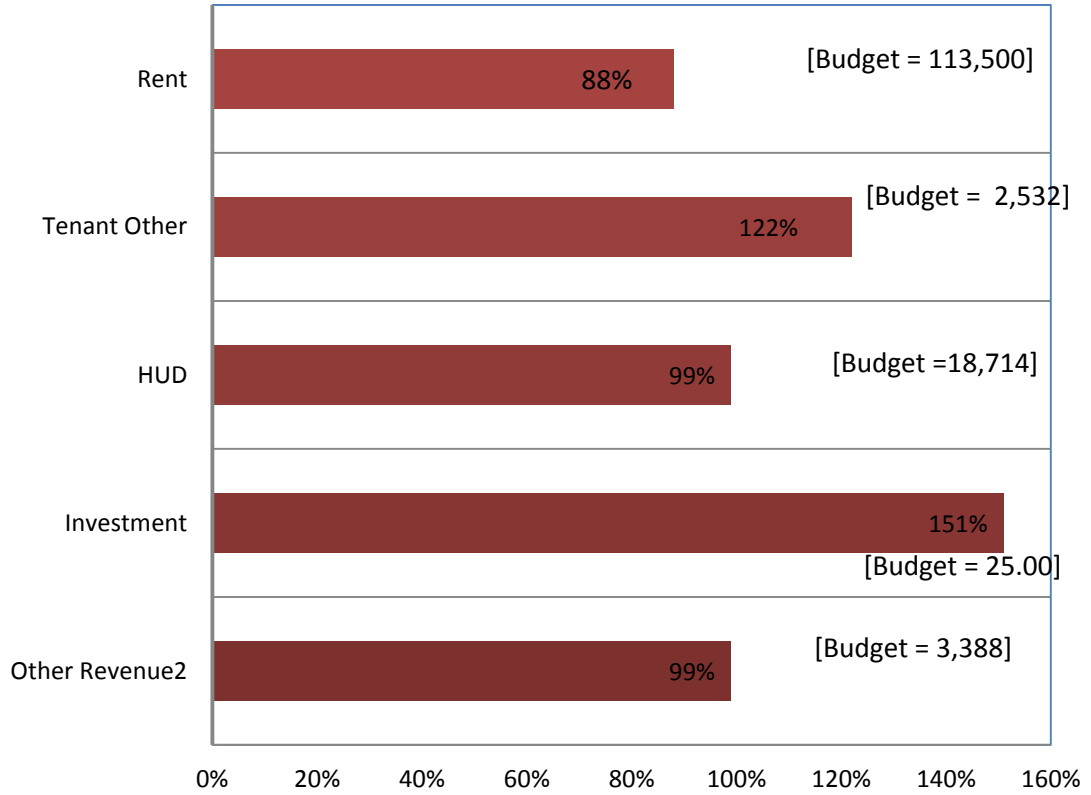
DATE OF TRANSFER	FROM ACCOUNT	TO RECEIVING ACCOUNT	DOLLAR AMOUNT TRANSFERRED	REASON
10/02/17	BREMER Savings	Wells Fargo Section 8 Checking	\$15,900.00	Van purchase and close out of Section 8 program- Resolution 2017-31 passed 9-26-17.

**D. Bacon** \_\_\_\_\_

Executive Director Approval

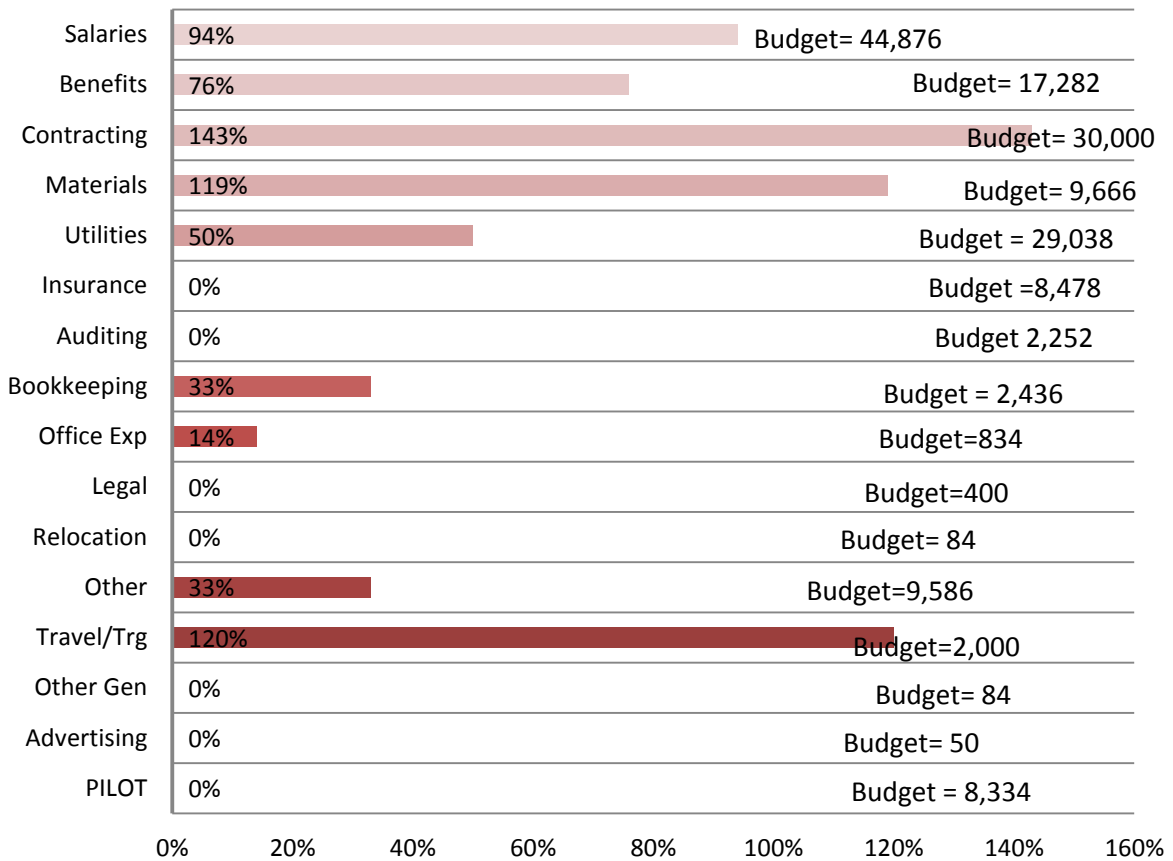
FYE 2018

# MPHA Revenue: 2 Month ended August 31, 2017



## MPHA Expenses: 2 Month ended Aug 31, 2017

FYE 2018



### OVERALL SUMMARY:

- This is public housing program only. 2 months revenue compared to 2 months expenses.
- Revenue was 124,479.07 and total expenses at 179,149.05.
- Overall expenses were 34,582.95 less than what was budgeted for the two months. This is largely due to items which are budgeted throughout the year but are not paid out monthly.

### NOTEWORTHY:

- Categories were combined from financial statement for easier viewing. For example, utilities is a summation of multiple FDS line items (sewer, water, gas, etc)
- Contracting is currently \$12,967 over budget. This was due to a payment of 24,000 to fix a boiler. Funding was received in previous fiscal year from insurance company claim
- We spent \$3,770.44 for pest control in August. This is due to an increase in bed bugs. This expense is reflected in the contracting line.



# MEMORANDUM

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**DATE:** October 19, 2017  
**TO:** PHA Board of Commissioners  
**FROM:** Dawn Bacon, Executive Director  
**RE:** Policy Committee Update: INFORMATION ONLY

The MPHA board appointed a policy committee in July to review the list of recommended policies from the recent NAHRO Commissioners Training and look at what policies need to be developed or updated at MPHA.

The policy committee has met on two occasions and will bring the first slate of policies to the board for review and approval in November.

The policies that have been drafted so far include the following:

- Record Retention
- Credit Card Usage
- Criminal Records Management
- Open Meeting
- Employment Income Verification Security
- Freedom of Information Act

These policies are being included in this board packet to allow for ample review time from board members not involved on the committee prior to their adoption.

# RECORD RETENTION

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## SUMMARY OF FINDINGS

- HUD says tenant files have to be kept for 3 years.
- HUD requires PHAS to retain all documents related to financial management and activities funded under the Operating Fund for a period of 5 fiscal years in which the funds were received
- MN State Statute has some tenant info 3 year and some 6 years
  - 3 yrs for subsidy data, eligibility info, application for benefits, program information and rules, reports and correspondence.
  - 6 yrs for rent rolls, schedules, tenant income related to title II
- Two other HRA looked at have documents broken down into 3 categories (One has permanent, 3 years and 7 years\*\*\* another has permanent, 3 years and 6 years)

## PROPOSED POLICY

It is the policy of Moorhead Public Housing Agency to retain and/or dispose of records in the manner described below and in compliance with all local, state, and federal laws, and consistent with HUD's proscribed retention schedules. All data may be retained in electronic or paper format.

Records relating to matters under litigation, government audit, or investigation should be preserved until the matter to which they relate has been fully and finally resolved and their disposition has been approved by legal counsel, the board of commissioners, and the Executive Director.

Records that have reached their termination should be destroyed in a manner consistent with measures to protect data. Confidential records should be disposed of in a manner so as to assure no access to such information. Records may retained longer than the suggested schedule but must be retained for at least the minimum time as listed. At the discretion of the Housing Authority, certain records may be retained indefinitely.

<b>PERMANENT RECORDS</b>
Articles of Incorporation and bylaws
Board meeting minutes
Audit Reports
End of year fiscal statements
Real Estate Records (deeds, mortgages, and bills of sale)
Litigation related documents
IRS examinations, rulings, comments

<b>3 YEARS</b>
EIV Income Report (3 years from end of participation date).
Tenant files, verifications, rent determinations, leases

<b>7 YEARS</b>
Bank statements, reconciliation, credit card statements and canceled checks
General ledger and journals
Accounts payable and receivable documents
Depreciation schedules
Monthly financial reports and statements
Annual operating budget
All documents related to financial management and activities funded under operating fund
Employee files (position descriptions, personnel actions, payroll records)
Employment tax records
Accident reports (after legal settlement)
Contracts and leases (after expired)
Housing data reports and records
Application and wait list documents (previous tenants after move out) (ineligible people after found ineligible)
Service contracts (after termination)

## Additional Background Info for reference

### § 982.158 Program accounts and records.

(a) The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. The records must be in the form required by HUD, including requirements governing computerized or electronic forms of record-keeping. The PHA must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

(b) The PHA must furnish to HUD accounts and other records, reports, documents and information, as required by HUD. For provisions on electronic transmission of required family data, see 24 CFR part 908.

(c) HUD and the Comptroller General of the United States shall have full and free access to all PHA offices and facilities, and to all accounts and other records of the PHA that are pertinent to administration of the program, including the right to examine or audit the records, and to make copies. The PHA must grant such access to computerized or other electronic records, and to any computers, equipment or facilities containing such records, and shall provide any information or assistance needed to access the records.

(d) The PHA must prepare a unit inspection report.

(e) During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

(1) A copy of the executed lease;

(2) The HAP contract; and

(3) The application from the family.

(f) The PHA must keep the following records for at least three years:

- (1) Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- (2) An application from each ineligible family and notice that the applicant is not eligible;
- (3) HUD-required reports;
- (4) Unit inspection reports;
- (5) Lead-based paint records as required by part 35, subpart B of this title.
- (6) Accounts and other records supporting PHA budget and financial statements for the program;
- (7) Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- (8) Other records specified by HUD.

(Approved by the Office of Management and Budget under control number 2577-0169)

[ 60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 61 FR 27163, May 30, 1996; 63 FR 23860, Apr. 30, 1998; 63 FR 46593, Sept. 1, 1998; 64 FR 50229, Sept. 15, 1999; 80 FR 8246, Feb. 17, 2015]

**§ 990.325 Record retention requirements.** The PHA shall retain all documents related to all financial management and activities funded under the Operating Fund for a period of five fiscal years after the fiscal year in which the funds were received.

**General Records Retention Schedule for MN Cities, May 2017:** [http://www.mcfoa.org/vertical/sites/%7B067FFB58-E3CD-42BA-9FB1-11EFC7933168%7D/uploads/Retention\\_Schedule\\_2017\\_FINAL.pdf](http://www.mcfoa.org/vertical/sites/%7B067FFB58-E3CD-42BA-9FB1-11EFC7933168%7D/uploads/Retention_Schedule_2017_FINAL.pdf)

**How long should the PHA maintain EIV printouts in a tenant file?** The PHA's record retention policy will determine the length of time the PHA should maintain EIV printouts in a tenant file. PHAs are authorized to maintain the EIV Income Report in the tenant file for the duration of tenancy and no longer than three years from the end of participation (EOP) date. In accordance with revised regulation, 24 CFR 908.101, PHAs are required to maintain at a minimum, the last three years of the form HUD-50058, and supporting documentation for all annual and interim reexaminations of family income. All records are to be maintained for a period of at least three years from the effective date of the action.

# CREDIT CARD USAGE AND PROTECTION

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## PROPOSED POLICY

The following positions(s) are authorized to use a company credit card: Executive Director and Maintenance Supervisor.

The credit card is to be used for business related activities only. Usage of the credit card for personal expenses is strictly prohibited. The definition of personal usage, in this case, is any expense not related to the operation of the business. No regular operating expense (e.g. monthly telephone bills, internet agreement) shall be charged to the credit card. Use of the card for cash advances is strictly prohibited.

Documentation of each expense shall be submitted as soon as possible, and no later than 10 days from the date of purchase. A receipt with a brief explanation will be submitted to the Office Specialist who will keep back up records on file along with monthly credit card statements.

Employees who are issued credit cards are responsible for the following:

- The card is kept in a safe location and that the identification number is protected.
- The card is only to be used by the employee and not any other individual
- The card is monitored for any fraudulent activities. Anything of concern will be immediately reported to the bank.
- Purchases do not exceed the card limit

# Open Meeting Policy

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Regular board meetings are scheduled monthly on the 4<sup>th</sup> Tuesday of the month at 11:30A.M. Additional meetings may be scheduled as needed (e.g. committee meetings, informational meetings, special meetings)

The Minnesota Open Meeting Law requires that meetings of governmental bodies generally be open to the public. A meeting is open when prior notice was given in advance of the meeting, the public may attend and observe, and relevant materials are available to the public.

For the purposes of this policy, a “meeting” is considered any meeting of board members when a quorum or more is gathered. This includes meetings where votes are not taken or contemplated. Social gatherings are not in violation of this policy as long as officials do not take the opportunity to discuss official business. One exception to the quorum or more specification is if the board appoints a committee comprised of less than a quorum to discuss an issue pertaining to the organization. Those committee meetings will be treated as open meetings unless the subject matter warrants a closed meeting under state law.

Moorhead Public Housing will keep a schedule of regular meetings on file at their offices. Notices of meetings will be posted at least 3 days prior to the meeting on the City of Moorhead website and at bulletin boards at River View Heights and Sharp View locations. Notice of the meeting will also be emailed to the media.

The MPHA board may only close a meeting in accordance with Minnesota State Statute. One example of a meeting that would close is a performance evaluation. Before closing a meeting, the grounds for closing the meeting will be stated.

Open meeting law does not require the taping of meetings with the exception of certain closed meetings. Tapes from those proceedings must be preserved for the number of years specified in state statute for the subject of the meeting.

Public bodies are exempt from some of the requirements of open meeting law to respond to an emergency situation. An “emergency” meeting is a special meeting called because of circumstances that, in the judgment of the public body; require immediate consideration by the public body.” Minn. Stat. §13D.04, subd. 3(e).

## Resources/References:

- Minnesota Statutes, chapter 13D <https://www.revisor.mn.gov/statutes/?id=13d>
- MN Open Meeting Law- Information Brief  
<http://www.house.leg.state.mn.us/hrd/pubs/openmtg.pdf>
- Practical Guide to the Open Meeting Law  
[http://www.mntownships.org/vertical/sites/%7BD45B3299-B0BE-4D08-8A42-B7053B4AE74F%7D/uploads/2006\\_whole.pdf](http://www.mntownships.org/vertical/sites/%7BD45B3299-B0BE-4D08-8A42-B7053B4AE74F%7D/uploads/2006_whole.pdf)

# EMPLOYMENT INCOME VERIFICATION (EIV) SECURITY

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## SUMMARY OF FINDINGS

HUD's Enterprise Income Verification System is a mandatory resource that must be used by every PHA to verify participant income. EIV is derived from computer matching programs with the Social Security Administration and the Department of Health and Human Services. It contains highly confidential information that must be protected. We have policy in our ACOP regarding what EIV is used for and ways it is used but lack a policy related to EIV security requirements.

## PROPOSED POLICY

EIV contains highly sensitive information such as wage and income data about private individuals, as well as identifying information such as Social Security numbers.

All EIV system users are required to participate in annual Security Awareness Training and HUD-sponsored initial and updated PIH-EIV System training. Individuals who will not access the EIV system, but will view and/or handle printed or electronic EIV information are also required to participate in only the annual Security Awareness training.

All EIV users must adhere to the EIV Rules of Behavior they signed as part of the employee EIV Access Authorization Form (HUD 5276). Program administrators should restrict access to EIV only to persons whose duties or responsibilities require access.

A current form HUD-9886 and 9887 must be on file before accessing the employment or income data contained in the EIV system for a public housing tenant.

Important rules regarding EIV include the following:

- Personal use of information resources is prohibited. EIV should only be used within the scope of a staff's official duties of administering a HUD program.
- Users must avoid leaving system output records or reports unattended or unsecured. Users should lock the computer or log out of the system when leaving work areas unattended.
- User passwords and user IDs are for individual use only and are confidential HUD information.

- Users shall only access the information for which they are authorized.
- Users will not disclose any EIV information to other private or public entities for purposes other than determining eligibility and level of assistance for PIH programs. This is prohibited since these entities are not party to the computer matching agreements with the Social Security Administration and Health and Human Services.

EIV use is subject to monitoring and users shall be held accountable for their actions while accessing the system or viewing printed or electronic EIV data.

If a user suspects any violation or breach of system security, they should immediately contact the MPHA Executive Director who will contact HUDHeadquarters Security Officer at EIVhelp@HUD.gov as well as the local HUD field office.

Moorhead Public Housing will follow “restrictions on disclosure requirements for Independent Auditors” outlined in HUD PIH Notice 2017-12 when undergoing audits.

DRAFT



# FREEDOM OF INFORMATION ACT

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## **SUMMARY OF FINDINGS**

The FOIA is a federal statute which allows any person the right to obtain federal agency records unless the records (or part of the records) are protected from disclosure by any of the 9 exemptions contained in the law.

The City of Moorhead does have has a clear policy and procedure in place for when a member of the public wants to access government data under the MN Government Data Practices Act. This policy/procedure would be applicable to Moorhead Public Housing. MPHA can also consult with the City Attorney with any requests from the public related to the freedom of Information Act.

## **PROPOSED POLICY**

Members of the public who would like to make a request for data that Moorhead Public Housing keeps should contact the Executive Director.

The Executive Director will follow protocol and policy outlined by the City of Moorhead. However, correspondence will occur between the public and Moorhead Public Housing Agency rather than the City. This includes submitting a written request for data and how MPHA may respond to such a request.

Further information can be found on the City's website

<http://www.cityofmoorhead.com/departments/administration/city-clerk-s-office/accessing-city-information>

**COAN & LYONS**

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CARL A. S. COAN, JR. (1934 – 2013)

OF COUNSEL

RAYMOND K. JAMES

CARL A. S. COAN, III

SHEILA C. SALMON

October 4, 2017

Dear Housing Authority Executive:

Thank you for agreeing to become a plaintiff in a second lawsuit that will seek money damages for the reduction of your public housing operating subsidies in 2012. A breach of contract action will be filed against the United States in the United States Court of Federal Claims (Claims Court) in Washington, DC. We expect to file a Complaint to initiate the lawsuit later this month.

We previously brought a lawsuit in the Claims Court with an identical breach of contract claim on behalf of 355 Housing Authority plaintiffs. The Claims Court ruled in our favor in that lawsuit and awarded over \$136 million in money damages to the plaintiffs. Since the Government decided not to appeal that decision, we are now in the process of submitting the paperwork for the payment of the \$136 million in damages to the plaintiffs in the first lawsuit.

As in the first lawsuit, we will be asserting in the second lawsuit that your Annual Contributions Contract (ACC) with HUD is a valid contract between the United States and each Housing Authority plaintiff, that the ACC explicitly incorporates HUD's operating subsidy regulation into the ACC, and that this regulation requires that the funds appropriated for operating subsidies must be prorated if the appropriated funds are less than the eligibility amount calculated in accordance with the Public Housing Operating Fund formula.

The FY 2012 HUD Appropriations Act changed the method of allocating the 2012 insufficient appropriation for operating subsidies. Instead of prorating the insufficient appropriation in 2012, the 2012 Appropriations Act required that the operating subsidies be reduced by the amount a Housing Authority's so-called excess operating reserve levels. If the 2012 operating subsidies had been

prorated, as required by the ACC, each Housing Authority would have received a proration of 81.04 percent of the Housing Authority's eligibility amount. Damages, therefore, equal the amount by which 81.04 percent of each Housing Authority's 2012 eligibility amount exceeded the operating subsidy each Housing Authority received for 2012, including any hardship grant that you may have received and your share of the approximately \$4 million distributed by HUD that remained from the total amount in hardship grants appropriated by Congress after HUD made its awards for hardship grants.

Any money damages awarded by the Claims Court will be paid out of the Judgment Fund maintained by the Treasury Department. The Judgment Fund is a permanent, indefinite appropriation created by Congress in 1956 to pay certain court judgments against the United States and settlements in which the United States agrees to the payment of damages. The money damages paid out of the Judgment Fund are not considered program funds and can be used for any purpose, consistent with your charter.

The fee you paid to join this litigation is a flat fee for the Claims Court case. Therefore, there will be no refund of the flat fee that has been paid. Nor will there be any additional fees or compensation requested for any legal services we perform in connection with the Claims Court case. This includes the \$400 filing fee which, as in the first lawsuit, the Claims Court may require be paid for each plaintiff in the lawsuit.

This fee does not cover an appeal of any decision by the Claims Court. However, we believe that the possibility of an appeal is small since the Government did not appeal the decision in the first lawsuit.

Your fees have been deposited into a fund jointly controlled by PHADA and NAHRO. We will submit bills for payment out of this fund based on the hours we spend on the litigation and the expenses we incur in connection with our litigation of the case. Our charges for this litigation are \$425 an hour for partners and our Of Counsel attorney, \$300 an hour for the time of an associate attorney and the hourly fee that is in effect at the time any work is performed by our law clerk. We will submit a final bill for any amount of the flat fees that remains in the fund at the end of the Claims Court case, including any work performed in connection with the payment of any settlement or decision in favor of the plaintiffs.

We look forward to representing you on this matter. Please contact me if you have any questions.

Sincerely,



Carl A. S. Coan, III