

**MONITOR'S FIRST QUARTERLY REPORT
FOR THE NEW YORK CITY HOUSING AUTHORITY**
Pursuant to the Agreement dated January 31, 2019
April-June 2019

SUBMITTED BY

**BART M. SCHWARTZ
FEDERAL MONITOR**



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Dear New Yorkers,

I want to express my appreciation to Housing and Urban Development Secretary Ben Carson and United States Attorney Geoffrey Berman for selecting me to be the NYCHA Monitor. I know that the decision must have been difficult because many experienced and talented people and groups were motivated as I was – we wanted to help the residents of NYCHA who have lived too long in unacceptable conditions. I grew up in Brooklyn and always have been proud to be a New Yorker. But I am not proud of how our NYCHA residents have been treated. What NYCHA residents need and demand is no more than any of us want for ourselves and our families: decent, safe, and sanitary living conditions.

These first few months of our work have revealed NYCHA as an organization fraught with serious problems in structure, culture, and direction, and perhaps even worse. And no one needs a Monitor to be appointed to figure that out. My duty as the Monitor is to drive meaningful change at NYCHA and to act independently on behalf of the estimated 600,000 NYCHA residents living in all five boroughs. Independent thinking does not foreclose cooperative working relationships or partnerships. I am working to establish productive relationships with NYCHA management, HUD, City Hall, the NYPD, resident groups and community organizations, among many others. But even well-meaning partners may have differing views, and I pledge that I will speak my mind and act in the best interests of all NYCHA residents.

The real challenge is in making important and meaningful changes in a timely manner. As you read this report please bear in mind that we have been at the job for only several months, our first official day being February 28, 2019. NYCHA has been deteriorating and failing for far longer. But we will not use that as an excuse to move slowly or be indecisive. When we see a need for a change, and we already see many, we will move to achieve those changes. We have heard too many excuses as things now stand to add another one to the list.

The Agreement between the federal government and the City that led to my appointment requires that my quarterly reports be public. To be frank, public reports may be the best leverage that I have to draw attention to important issues and get things done before turning to my other authority set out in the Agreement. Aside from these reports, I plan to continue to be open and transparent and available to residents and other stakeholders through face-to-face meetings, the Monitor website, email, and phone.

I have set out a goal for my team to get to know first-hand every individual NYCHA development. On the very first day of my Monitorship, I visited a development in Manhattan and spoke with the Tenant Association Board, a meeting which provided a wealth of information. We have since contacted all active Tenant Association Presidents and I personally have spoken with 104 of those leaders in a series of conference calls. By June 30, 2019, my team and I had visited over 100 developments across all five boroughs, talking with residents, community members, and NYCHA staff. We thank everyone who took the time to speak with us. Their help has been invaluable in our efforts to understand NYCHA's most pressing problems and their collaboration will be essential for any effective solution.

I am looking forward to working with the new Chair and CEO Gregory Russ to achieve significant and long-lasting change at NYCHA.

Respectfully Submitted,

Bart M. Schwartz

II. INTRODUCTION

On June 11, 2018, the United States filed a complaint against the New York City Housing Authority (“NYCHA”) in the United States District Court for the Southern District of New York. The United States alleged that NYCHA breached its duty to provide decent, safe, and sanitary housing for residents and had failed to comply with lead paint regulations protecting children from lead poisoning. It also alleged that NYCHA repeatedly misled the United States Department of Housing and Urban Development (“HUD”) through false statements and deceptive practices.

The complaint, which recounts NYCHA’s alleged misconduct in detail, is attached to this report at Appendix 1 and is available electronically at <https://www.justice.gov/usao-sdny/page/file/1074866/download>. The complaint describes the conditions faced by NYCHA residents:

Mold grows unchecked at many NYCHA developments, often on a large scale. Across the city, residents are provided inadequate heat in winter, leading to frigid apartment temperatures. Pests and vermin infestations are common, and as senior New York City officials have acknowledged, NYCHA “has no idea how to handle rats.” Elevators often fail, leaving elderly or disabled residents trapped in their apartments or sleeping in building lobbies because they cannot return to their homes. Leaks, peeling paint, and other deterioration are commonplace, but go unaddressed.

Complaint ¶ 7.

The complaint further alleges that, to avoid regulatory scrutiny and potential funding limitations, NYCHA hid conditions like these from inspectors and repeatedly made false statements to HUD and the public. For example, to deflect attention from press reports about a child with dangerously high levels of lead in her blood, NYCHA told HUD and the public that NYCHA “complies with Federal, State, and City regulations concerning lead.” During this entire period, however, NYCHA was substantially out of compliance

with important lead paint regulations. Similarly, to fend off concerns about NYCHA's large backlog of maintenance work, NYCHA began reporting reductions in its backlog due to supposed "improved efficiency." However, much of the reduction was due to NYCHA's manipulation of the work order process so that it no longer reflected the work that NYCHA knew needed to be done. *Id.* ¶ 9.

The complaint points to the culture at NYCHA as a large part of the problem. NYCHA's response to external inquiries was frequently to cover up or minimize problems that it knew to exist, and executives speaking for the agency (at best) failed to conduct basic diligence before providing HUD and the public false assurances of compliance. The complaint attributes these issues to management dysfunction and organizational failure, including a culture where spin is often rewarded and accountability often does not exist. *Id.* ¶ 10.

To tackle these and other problems at NYCHA, on January 31, 2019, the United States Attorney's Office for the Southern District of New York ("SDNY"), HUD, NYCHA, and New York City entered into an Agreement to resolve the federal lawsuit. The Agreement is intended to remedy the deficient physical conditions in NYCHA properties, ensure that NYCHA complies with applicable federal law, reform NYCHA's management structure, and facilitate cooperation and coordination between HUD, NYCHA, and the City. The Agreement is attached to this report at Appendix 2 and is available electronically at <https://www.justice.gov/usao-sdny/press-release/file/1125736/download>.

Rather than mandating a receivership or a federal take-over of NYCHA, the Agreement allows NYCHA to maintain control of its operations and accords NYCHA responsibility for fixing the problems alleged in the complaint. The Agreement, however, recognizes that oversight is necessary. To that end, the Agreement requires the City to engage a Monitor, selected by HUD and SDNY, to oversee NYCHA's compliance with the Agreement and make public reports on NYCHA's progress. NYCHA is obligated to cooperate in all respects with actions taken by the Monitor under the Agreement. Bart M. Schwartz was appointed as the Monitor on February 28, 2019.

Under the Agreement, NYCHA does not pay for the Monitor's work. The Monitor's budget is paid from the budget of the Office of the Corporation Counsel of the City of New York. A proposed budget has been submitted to HUD and SDNY and is awaiting final analysis before presentation to the City.

The Agreement directs NYCHA to make significant changes in many different areas, including an overhaul of NYCHA's organizational structure. The Agreement obliges the City to select a new permanent Chair and CEO and to hire a third-party management consultant to examine NYCHA's systems, policies, and procedures, and then recommend improvements. After receiving those recommendations, NYCHA and the Monitor must prepare an "Organizational Plan" setting forth changes to NYCHA's management, organizational, and workforce structure. If NYCHA and the Monitor are unable to agree on a plan, the Agreement requires the Monitor to submit its own proposal to the federal government for approval.

NYCHA must also establish and maintain a Compliance department that will, among other things, oversee NYCHA's adherence to federal, state, and local regulations and ensure the accuracy of NYCHA's external reports and statements. It also must ensure the integrity of HUD's Public Housing Assessment System ("PHAS") inspections and other inspections at NYCHA so that NYCHA does not engage in deceptive practices that have occurred in the past, such as hiding unsafe conditions and performing substandard repairs. In addition to the revamped Compliance department, the Agreement also requires NYCHA to create a department to oversee and improve environmental health and safety and to establish a quality assurance unit to identify maintenance performance problems. All of the organizational changes introduced to date are described in Section IV of this report.

In addition to these organizational changes intended to create a new structure of responsibility and oversight at NYCHA, the Agreement mandates that NYCHA take actions to address the widespread problems of lead-based paint, heating and hot water

failures, mold, elevator outages, and pest and waste management. The Agreement provides various deadlines for NYCHA to complete specific tasks and to submit “Action Plans” in each of these areas. In each Action Plan, NYCHA must set forth policies and procedures to be adopted and specific actions to be taken to achieve compliance with the Agreement in correcting those problems. Each Action Plan generally must include milestones to be achieved by specific completion dates. The Monitor must approve or reject each Action Plan and consult with NYCHA in selecting independent contractors to perform the work. In Section V of this Report, we discuss NYCHA’s progress in each of those areas and any Action Plans submitted to date.

The Agreement also recognizes the importance of community and resident engagement to a comprehensive solution of the many long-standing problems at NYCHA. Accordingly, the Monitor is directed to engage with NYCHA stakeholders including resident and resident groups regarding matters related to the Agreement. The Monitor must convene a Community Advisory Committee (“CAC”) to meet on at least a quarterly basis to solicit stakeholder input regarding the achievement of the Agreement’s purpose, and must establish additional procedures beyond the CAC for communication with those stakeholders. We report on the Monitor’s progress in these areas in Section VI of this report.

The Monitor has assembled a highly experienced team with diverse backgrounds and talents to work with NYCHA to improve performance and ensure that the Agreement’s terms are met. A summary description of the Monitor Team leaders is attached to this report at Appendix 3. The team also includes a well-respected former public housing association head and subject matter experts in areas such as lead paint. The team is also being aided by a global firm that manages major capital projects all over the world. That firm has a broad base of experience working with housing authorities, developers, and public agencies in New York and the United States, and understands asset management, portfolio management, design management, construction management, and facility management best practices. In addition, the Monitor Team includes field examiners and investigators on the ground who will conduct both announced and

unannounced site visits to audit NYCHA's work. Any illegal conduct in connection with that work that our investigators uncover will be promptly reported to law enforcement.

Under the Agreement the Monitor is not responsible for the day-to-day operations of NYCHA. However, we have not ignored individual complaints when they have been brought to our attention because these individual complaints may indicate larger problems. Perhaps one disturbing example will make the point.

Our investigators on a routine and unannounced visit to the Polo Grounds houses discovered a large pipe cascading putrid liquid into the laundry room from the ceiling. A lone worker was trying to stem the tide with a mop. When questioned, he advised that this problem had existed for approximately two months unabated. A video taken by our investigators showing the severity of the leak is available at the following link: [Leak Video](#).

Our investigator spoke with the superintendent who advised that it was necessary to build a scaffold to make any repairs because the ceiling was about 10 feet high. He said that he had taken steps to order the lumber and that, once the lumber arrived, he would call the carpenters to build the scaffold and then he would call the plumbers. The Monitor Team immediately alerted NYCHA senior management and the problem was repaired within about three hours. A plumber had arrived with a ladder.

With our access to NYCHA databases and files we reviewed NYCHA's records for this "leak." The related work orders, which were filed in NYCHA's Maximo database, were inaccurate. One of the work order tickets had even been closed out in Maximo by a secretary in the NYCHA borough office without any explanation, when no work at all had been performed to abate the leak. This story illustrates a number of issues, including inefficiencies at NYCHA which add unnecessary costs to its budget. But the main problem here is NYCHA's failure to take action to solve a problem that needed immediate attention.

NYCHA must learn how to identify and fix these and other problems expeditiously, without getting bogged down in layers of bureaucracy or a “check the box” mentality. Among the management challenges we see is the tendency to avoid personal responsibility and accountability. Rather than assigning a specific individual to be in charge of a matter, often NYCHA will name a department as the accountable party. From this it is no surprise to find that there are many obstacles to the successful completion of projects and work orders. Moving forward, NYCHA needs to build a culture of individual accountability and service. There are many hard-working employees of NYCHA who want to do their job and be proud of where they work. The residents too want to be proud of their surroundings and where they live. Part of the challenge is to tap into that reservoir of good will and pride to change the negative and desperate culture which now envelops NYCHA.

Everyone will have a role in improving NYCHA, and no one individual or group is to blame for the problems that exist. Since his appointment, the Monitor has met or spoken with officials at the highest levels in federal, state, and city government: Secretary Carson, Regional Administrator Patton, and others at HUD; Governor Cuomo and Mayor de Blasio; City Council members, including both the current and former chairs of the Public Housing Committee and members of the African American, Hispanic, and Asian Caucus and the City Comptroller, among many others. All of these officials have been instrumental in highlighting various problems at NYCHA and expressing a commitment to help fix them.

It is the Monitor’s job to look forward and identify constructive solutions so that NYCHA can improve its culture and performance and meet its obligations under the Agreement. Often in monitorships, the Monitor Team will make observations about ongoing problems or roadblocks to success and will recommend that management take certain actions to resolve them. We are currently working with NYCHA to develop a process for the review, implementation, and tracking of such recommendations, and we expect to make many recommendations going forward. Throughout this report, we note certain areas which are likely to be the subject of future recommendations.

Although not specifically mandated by the Agreement, the Monitor has agreed to provide NYCHA and the City with an advance copy of these quarterly reports in order to comment on the facts disclosed in the report. Those comments will be reviewed by the Monitor and only incorporated into the report if they are deemed to correct an error. We also will provide HUD and the SDNY with a verbal briefing and summary prior to the reports' public release.

III. EXECUTIVE SUMMARY

Since the Monitor's appointment on February 28, 2019, the Monitor Team has taken many steps to effectuate the terms of the Agreement and to instigate change at NYCHA. We are mindful that the residents want – and deserve – swift progress, but in some areas lasting and meaningful change will take time.

NYCHA has been without a permanent leader since April 2018. On June 18, 2019, the Mayor appointed a new NYCHA Chair and CEO, Gregory Russ, who was formerly the head of the Minneapolis Public Housing Authority. With stable leadership, it is hoped that NYCHA will move away from a culture of “management by crisis” to a culture of long-term planning, transparency, and accountability. The Monitor Team is committed to working with Chair and CEO Russ and with the NYCHA Board to help NYCHA set a successful course for the future.

As required by the Agreement, the Monitor Team collaborated with the City to select a management consultant to analyze NYCHA's organization and operations and make recommendations for improvements. This process was successfully accelerated with the addition of the newly-appointed Deputy Mayor Been, who has NYCHA within her portfolio. NYCHA itself did not participate in the selection process although it was invited to do so. KPMG, with Bronner Group LLC as a subcontractor, was selected in April and will conduct its assessment over the next few months. Ultimately, the Monitor and

NYCHA will review KPMG's findings and develop a plan to change NYCHA's structure and policies with the primary goal of achieving sustained compliance with the Agreement.

The Monitor Team is overseeing NYCHA's creation and implementation of three internal departments – Compliance, Environmental Health and Safety, and Quality Assurance – that are intended to ensure NYCHA's adherence to federal, state, and local regulations and the integrity of NYCHA's inspections, reports, and statements. We are concerned, however, about the effectiveness of these departments as NYCHA has currently planned them. The Monitor rejected two proposed department heads proffered by the Interim NYCHA CEO because they were lacking the requisite qualifications and experience to lead these important groups. Also, we note that NYCHA's current plan for Compliance narrowly focuses on regulatory functions and does not have a robust investigative component nor a sufficient focus on integrity; in our view, these functions are essential in any program but especially so here given NYCHA's history of cover-ups and false statements. We have pointed out these as well as other issues, and are committed to establishing robust departments that will ensure integrity within NYCHA.

We are also holding NYCHA to a number of deadlines imposed by the Agreement to address lead-based paint hazards, heat and hot water failures, mold, elevator outages, and pests and waste.

In some areas, NYCHA management has been very cooperative. For example, we are working with the elevator group to revamp their recently submitted Action Plan to include concrete objectives rather than aspirational goals. Their initial submission did not sufficiently address an important concern identified in the Agreement – the need for a detailed plan for assisting residents with mobility impairments when a building has a total elevator outage. The NYCHA elevator group and the Monitor Team have now established a working group that meets biweekly to identify solutions to these and other issues. The working group will act to ensure that NYCHA residents have safe and reliable elevator service, including comprehensive contingency plans when outages occur.

We are also working collaboratively with NYCHA management and have formed a working group with respect to pest control and waste management. Among other things, we are in the process of initiating “best practices” pilot programs at a few developments where many residents have complained about rats and trash. We are working with NYCHA to implement changes – such as replacing compactors and increasing the size of trash chute doors – that can be rolled out to other developments if proven successful.

NYCHA management has been less cooperative with respect to lead paint. Specifically, we took issue with how NYCHA calculates the number of non-exempt apartments where children under six years of age either reside or regularly visit. To make this calculation, NYCHA relied exclusively on existing NYCHA central residence records (obtained largely through forms filled out by residents in the annual recertification process) which are known to often be unreliable or out of date. No development staff members, residents, or resident groups were asked to assist in the identification effort. NYCHA must make a better effort to identify these at-risk children. Furthermore, we learned through our own efforts that certain contractors were not conforming to lead-safe work practices, which was not disclosed to us by NYCHA. When we initially pressed on these and other issues, we met with resistance. Going forward, we have initiated a weekly “lead process” meeting between the Monitor Team and NYCHA that we hope will resolve these problems.

All the priority areas described above – lead paint, mold, heat and hot water, elevators, pests and waste – share common causes that must be addressed for any individual solution to be effective. NYCHA’s housing stock is aging and preventive maintenance has been neglected. A comprehensive asset management strategy is necessary to ensure that NYCHA’s capital investments are effective and that its operational funds are not squandered. We are working with NYCHA to establish roundtable discussions for capital, operations, budgeting, work orders, and other areas to coordinate these efforts. We are also exploring the use of state-of-the-art technologies reduce costs and improve budgeting.

Metrics and productivity must be part of our continuing examination of NYCHA's performance. The Maximo work order system often is quoted by NYCHA as a measure of productivity and success. However, a simple understanding of the system reveals that often there is little, if any, correlation between closing work orders and completing the repair of a problem.

It is imperative that NYCHA establish comprehensive and reliable metrics so that its performance can be accurately measured and verified. We have found that NYCHA's data is often incomplete, imprecise, and/or inaccessible, creating an inaccurate perception of NYCHA's performance. For example, we were told that NYCHA in the past calculated the duration of an elevator outage from the time the repair person(s) entered the outage into a database to the time when service was restored – not from when the outage actually began. NYCHA also did not identify the exact cause of each outage in its database. Although we were told that NYCHA now tracks elevator outages more accurately, it calls into question the usefulness of NYCHA's historical data (to the extent such data exists at all). The Monitor Team is working to verify NYCHA's metrics and where necessary to establish better protocols so that NYCHA's progress can be measured, tracked, and assessed in a meaningful way going forward.

We also are working to engage with NYCHA residents and the community. To that end, one of the Monitor Team's first actions was to contact all of the over 200 Tenant Association Presidents identified by NYCHA. As of June 30, 2019, Monitor Team members had visited 115 developments across all five boroughs, speaking with residents, superintendents, neighbors, and others. In accordance with the Agreement, the Monitor established a Community Action Committee ("CAC") to serve as a public forum where NYCHA stakeholders can discuss critical issues and concerns regarding NYCHA services. Although the Agreement calls for quarterly CAC meetings, the Monitor will be conducting them every other month, rotating their venues between sites in all five boroughs. The first CAC meeting took place on May 14, 2019, at the Ingersoll Houses Community Center in downtown Brooklyn, with over 150 residents and members of six community organizations in attendance. These and other outreach efforts have provided

important information about NYCHA's services (or the lack thereof) and we discuss many of our findings, and suggestions for improvements, in the last section of this report.

IV. INSTITUTIONAL CHANGES

In this section, we report on the institutional changes mandated by the Agreement, specifically the recent change in NYCHA leadership, the hiring of the required organizational consultant, and the establishment of the Compliance, Environmental Health and Safety, and Quality Assurance departments.

A. Change in Leadership

The Agreement sets out a process for the selection of a permanent Chair and CEO for NYCHA. The City, HUD, and the SDNY were directed to jointly develop a list of potential candidates within 30 days after the effective date of the Agreement. The City was then granted the authority to select its preferred candidate within 30 days after the list was finalized. Once selected, the Chair and CEO cannot be removed or replaced without the concurrence of HUD and the SDNY during the term of the Agreement. If another vacancy occurs during the Agreement's term or 10 years, whichever is shorter, the Agreement's provisions would apply to the selection of a replacement. Agreement ¶ 44.

NYCHA has been without a permanent Chair and CEO since the former head, Shola Olatoye, resigned in April 2018. Although the City was unable to meet the initial deadline for selecting a Chair, on June 18, 2019, New York City Mayor de Blasio and HUD Secretary Carson announced the appointment of Gregory Russ to the post. It should be noted that the Monitor supported the extensions of the deadline, believing that it was necessary for a thorough search. A copy of the City's Press Release is attached at Appendix 4 and is electronically available at <https://www1.nyc.gov/office-of-the->

[mayor/news/312-19/mayor-de-blasio-u-s-department-housing-urban-development-secretary-carson-announce](https://www.nycha.net/mayor/news/312-19/mayor-de-blasio-u-s-department-housing-urban-development-secretary-carson-announce).

The Press Release sets out the experience of the new Chair and CEO:

About Gregory Russ

Gregory Russ is a seasoned housing professional with decades of management experience. Most recently, he served as Executive Director and Chief Executive Officer of the Minneapolis Public Housing Authority. Before Minneapolis, Russ served as Executive Director of the Cambridge Housing Authority. He also served as Deputy Executive Director of the Philadelphia Housing Authority, helping oversee the management, maintenance operations and security services for the 70,000 residents. From 1997 to 2002, he served in several roles with the Chicago Housing Authority. Russ also served as Principal Associate for Abt Associates, a consulting firm assisting public, private and non-profit housing agencies with strategic planning.

In 1995, Russ worked as Special Assistant to the Deputy Assistant Secretary for Public and Indian Housing at the U.S. Department of Housing and Urban Development, working under the Clinton Administration. He later served as Director of Troubled Agency Recovery.

Russ holds a Bachelor's Degree in English from the Shippensburg University of Pennsylvania and is a board member of the Council of Large Public Housing Authorities. He is also former president of the Public Housing Authority Director's Association and a member of the Federal Reserve Opportunity and Inclusive Growth Advisory Council.

The Monitor Team is committed to working collaboratively with Chair and CEO Russ in the coming years to develop comprehensive and sustainable solutions to NYCHA's challenges. The Monitor met with Mr. Russ during the final stages of the selection process and has spoken with him on several occasions since his appointment was announced. Among other things, they have agreed to establish training sessions for NYCHA executives about the substance of the Agreement in order to set a tone of

cooperation and to ensure that high-level decisions are made with the Agreement's requirements in mind.

The Monitor Team also intends to work collaboratively with the NYCHA Board members. The Board members are appointed by the Mayor and at least three must be residents. The Monitor personally interviewed all but one of the Board members at the time of his appointment, although two of them resigned shortly thereafter. The Board is led by the Chair who also is the CEO. Whether this is an appropriate sharing of duties and functions will be a focus of the organizational study discussed below.

The Board members who were interviewed by the Monitor were cooperative – and frustrated. Generally, they felt that they had no support, inadequate training, were not given sufficient preparation for the meetings, and were expected to act like a rubber stamp or just an extension of what the management wanted and only to serve the purpose of approving expenditures. One Board member said that even when he did inquire further about a topic important to him, those reporting to the Board on the issue could only tell him that it was their responsibility to report the problem, not to solve it.

The NYCHA Board has a duty to maintain the viability of public housing, and to ensure that public housing continues.¹ Accordingly, whether the roles of CEO and Chair are merged or segregated, the responsibility to the residents remains. Board members need to be trained, need to have access to information, need to ask questions and probe and demand to be kept abreast of important issues and NYCHA's progress dealing with serious problems and complaints. At present, the Board meetings, which are streamed live, appear “staged” and superficial and designed only for public consumption, not for

¹ New York Consolidated Laws, Public Housing Law - PBG § 402-b, provides that: “The legislature finds and declares that the state has a vital interest in the continued viability of public housing. It is necessary to ensure that public housing continues to serve low-income individuals and families who would otherwise face homelessness or be forced into unsafe or unsanitary housing. Public housing functions as a safety net for persons most in need of safe, decent and affordable housing. The legislature further finds that the New York city housing authority has made, and continues to make, a concerted effort to provide public housing to individuals and families in need.” New York City Housing Authority By-Laws § 1.03(i) further provides that the “Authority will have the power to authorize expenditures and take all necessary and proper steps to carry out the purposes of the Authority and to promote its best interests....”

meaningful discussion or problem solving. Indeed, the portion of the meetings during which residents appear may be the most informative part of the Board meetings. We intend to address this with KPMG as the organizational consultant.

B. Organizational Consultant

The Agreement required the Monitor and the City to jointly select a management consultant within 60 days of the Monitor's appointment. Once engaged, the consultant's task is to examine "NYCHA's systems, policies, procedures, and management and personnel structures, and make recommendations to the City, NYCHA, and the Monitor to improve the areas examined." Agreement ¶ 45.

During March 2019, the Monitor Team, with input from the City, prepared a Request for Qualifications ("RFQ") document to solicit management consultancy services. The Monitor Team became familiar with the procurement process required for the City to engage a vendor, conferred with key individuals involved in the selection, and, to facilitate an expeditious procurement consistent with the mandate of the Agreement, worked with the New York City Law Department ("Law Department") and NYCHA to obtain a list of vendors who were previously vetted and approved to perform work for the City. The RFQ was sent to twelve prospective vendors in early April.

Throughout April 2019, the selection committee conducted interviews of the prospective vendors. The interview sessions provided the vendors with an opportunity to ask questions and aided in the development of the scope of work for services. At the conclusion of the first set of interviews, four firms were selected for further evaluation. The City and the Monitor Team then prepared a scope of work document and the four firms were invited to submit proposals.²

The scope of work requires that the selected management consultant provide a series of reports documenting the "as is" state of NYCHA. The reports are to include: (1)

² A fifth firm who was not invited to submit a proposal also submitted a proposal for evaluation.

a Current State Findings Report; (2) a Capability Maturity Assessment Report; (3) a Change Readiness Report; and (4) a Roadmap highlighting Next Steps and Future Recommendations. In sum, the consultant will provide reports that document what NYCHA's current organization looks like, how it can be measured for success, whether it has the capability in its current state to achieve the measured success, and how its current property-related operations compare to good industry practice. The consultant will also make recommendations to assist NYCHA to achieve its goals.

After a review of the proposals and a second round of interviews, the selection committee determined that KPMG (with Bronner Group LLC engaged as a KPMG subcontractor) was the most qualified to perform the scope of work required. Negotiations between the City and KPMG began thereafter, and a premobilization kick-off meeting was conducted for the benefit of the NYCHA executive staff on May 3, 2019. KPMG will work with NYCHA over the next four months to conduct its review of the organization. Regular updates will be provided to the Monitor, City Hall, and the Law Department.

Ultimately, once KPMG's reports and recommendations are finalized, the Monitor and NYCHA must collaboratively prepare an "Organizational Plan" setting forth changes to NYCHA's management, organizational, and workforce structure and policies with the end goal of achieving sustained compliance with NYCHA's obligations under the Agreement. Agreement ¶ 46. We will provide a synopsis of KPMG's progress and the development of the organizational plan in our next quarterly report.

C. Compliance and Related Departments

The Agreement requires NYCHA to establish three departments: Compliance, Environmental Health and Safety ("EHS"), and a Quality Assurance Unit ("QAU"). The Agreement sets out a list of specific functions that each department must fulfill. Collectively these functions are intended to increase transparency, accountability, and integrity within NYCHA. NYCHA also must appoint a leader for each department with the

concurrence of the Monitor, after HUD and SDNY have an opportunity to comment. Agreement ¶¶ 53-59.

During the first quarter of the Monitorship, the Monitor Team participated in numerous meetings with senior NYCHA management including the Interim Chair and CEO, the General Manager, their respective Chiefs of Staff, their Deputy Chiefs of Staff, the General Counsel, the former Chief Compliance Officer, the Interim Chief Compliance Officer, the Interim EHS Officer, the Interim QAU Officer, and outside consultants who had worked with NYCHA on planning a Compliance department. These meetings were part of an ongoing process between NYCHA and the Monitor Team to review and comment on NYCHA's plans for these departments. On many of these occasions, the Monitor Team proposed extensive revisions to NYCHA's draft plans. Ultimately, on April 29, 2019, NYCHA presented a finalized Memorandum regarding its intended establishment of the three departments, including Appendices with Charters for each department and some associated protocols.

Prior to the release of the finalized Memorandum, the Monitor Team had engaged in extensive discussions with NYCHA staff about the proposed Charters, pointed out many inadequacies, and made suggestions for addressing them. When NYCHA published portions of the Charters on its external website (without providing copies or advance notice to the Monitor and without publishing them internally to its employees), the Charters were substantially unchanged from initial versions which we had found to be unsatisfactory.

The Monitor Team has reviewed NYCHA's April 29th Memorandum and Appendices as well as various other documents pertinent to the functions of the three planned departments. We have also reviewed NYCHA's May 29, 2019, PHAS Inspections Action Plan and Revised Standard Protocol. In addition, the team has reviewed:

- Survey questionnaire of regulatory reports;

- Various pre-existing Standard Protocols of NYCHA relating to the Compliance department;
- A pending RFP for third party instruction concerning compliance basics;
- Pre-existing and current organization charts of NYCHA, both Authority-wide and those related to the three new departments;
- Multiple drafts of department and unit charters;
- Workflows related to certain aspects of the Compliance department;
- Budget summaries; and
- More than 300 pages of materials prepared by NYCHA's third-party consultant relating to the planned Compliance department which was delivered to NYCHA in February 2019 and provided to the Monitor Team in late March 2019.

We also reviewed and forwarded guidance from the following organizations to the Interim Chief Compliance Officer and other NYCHA staff regarding standard criteria used to evaluate compliance programs:

- COSO, the Committee of Sponsoring Organizations;
- The IIA, the Institute of Internal Auditors;
- SEC Rule 404 and §8B2.1 of the U.S. Sentencing Guidelines concerning compliance programs;
- April 2019 Guidance from the U.S. Department of Justice about the evaluation of compliance programs.

Given the Monitor Team's extensive experience with compliance issues, and our review of the pertinent documents, we have expressed concerns to NYCHA about the organization and scope of NYCHA's planned Compliance department. Specifically, after our review of the proposed Charter and after numerous conversations with NYCHA management, it appears that NYCHA has focused its efforts to date on organizing the Compliance department narrowly to fulfill only regulatory compliance functions. The Memorandum and associated documents indicate that NYCHA has removed the inspection function from Compliance and has taken away almost all its investigative resources. These actions appear contrary to the robust and broad compliance program that is required by the Agreement. We are also concerned that NYCHA has failed to adequately staff or fund the planned department.

Specifically, we note the following potential problems with NYCHA's plans:

- The current organizational chart for Compliance (Appendix 2 to the April 29 Memorandum) indicates that the Compliance department will have only two investigators on staff reporting to the Deputy Director, Compliance Issues & Complaints. In an organization with over 10,000 employees, this number appears inadequate.
- The Memorandum indicates that the Chief Compliance Officer will inform the Monitor of the number of referrals made to the Office of Inspector General ("OIG") only on a quarterly basis and not when such information is received. The Monitor has informed NYCHA that this is unacceptable because it is contrary to provisions of the Agreement which mandates the Monitor's access to such information, and because timely information is necessary for the Monitor to identify and correct issues relating to the department's functioning overall.
- The Memorandum does not include a Code of Conduct which, incredibly, NYCHA does not already have. In addition, NYCHA must consider how to implement the Code and train employees on its requirements.

In meetings with NYCHA staff we expressed serious concerns about the scope of compliance training NYCHA intended to implement, as outlined in its pending RFP for a third-party vendor to conduct such training. The scope of its planned "Compliance 101" as described in the RFP suggested a narrow focus on regulatory compliance. We advised NYCHA that its compliance training must focus equally on expectations regarding ethical behavior and standards of conduct, including discussion of specific misconduct, retaliation, etc. We subsequently received a draft "Compliance 101" PowerPoint that includes several slides on these topics and we will be working with NYCHA to further refine content for its "Compliance 101" training.

With respect to the new EHS and QAU divisions, we have raised concerns with NYCHA regarding the assignment of inspection functions to these departments. The Agreement provides that Compliance is responsible for ensuring the integrity of all inspections. Under the new Charters, however, many types of inspections are now to be assigned to EHS. It is unclear how the oversight of these inspections will be coordinated. EHS's responsibilities regarding mold and lead paint are also unclear, as primary responsibility for mold and lead paint inspections reside in other functions. We anticipate

that all of these issues will warrant continuing close review by the Monitor Team in the coming quarter.

Although we have noted various areas for improvement, we are committed to working with the leadership of these new departments to make them succeed. Initially, the Monitor rejected two proposed department heads proffered by the Interim CEO because in our view they lacked the requisite qualifications to lead these important groups. Since that time, interim leaders have been appointed for all three departments.

To further the development of the three departments, as well as to help implement their functioning, we are working with the Acting Chief Compliance Officer, EHS Officer, and QAU Officer on a complex matter that was referred by the Monitor Team to NYCHA. We have asked that this matter be investigated with our participation in advising the three departments how to coordinate effectively. We anticipate that by the next reporting period we will have feedback on the progress of this matter. We expect that this interaction will provide an opportunity to test the workings of the new departments, establish a pathway to a more collaborative relationship among the Monitor Team and the departments, and enable NYCHA employees and leadership to benefit from the experience of the members of the Monitor Team.

We also are in the process of discussing the following potential recommendations with the department leaders and other NYCHA management:

- We believe that a statement from NYCHA to its officers, employees, and residents that it wants to get value from the Monitorship and to work with the Monitor Team to achieve the goals of the Agreement should be issued. As part of that message, a clear statement should be made emphasizing NYCHA's concern for its residents and personnel, and zero tolerance for misconduct by anyone in the future. It should emphasize the need and requirement for all NYCHA employees to cooperate with the Monitor Team as we work together to achieve the goals of the Agreement.
- NYCHA operational management (with support from Compliance and Legal) should develop a Code of Conduct for all NYCHA personnel. It should develop a

plan to systematically roll out the Code to all employees, including contract employees, and provide training about it.

- NYCHA (under Compliance) should expedite the implementation of a single separate reporting mechanism with anonymity (e.g., a hotline), which could be administered by a third-party vendor to be shared among the three new departments. The daily reports should be directed to a lawyer or senior compliance person in the Compliance department for triage.
- NYCHA should expedite the roll-out of the new departments by developing standard procedures and protocols quickly. In particular, additional staffing, related duties, and funding should be fast-tracked to have these departments promptly operating at their intended capacity. These efforts should include procurement of necessary outside services for all activities associated with the formation of fully-functioning departments.

One of the primary responsibilities of the three departments is to ensure that both the work and inspections being performed by NYCHA staff are done properly and reported honestly. In the wake of the systematic submission of fraudulent lead paint inspection reports by NYCHA to HUD over the past few years, the Agreement contains very clear mandates that NYCHA adopt measures to end those practices. NYCHA is required to design and implement internal controls to prevent deceptive practices in the form of an Action Plan, and the Agreement tasks NYCHA's Chief Compliance Officer with preventing those practices and ensuring the integrity of PHAS inspections. Agreement ¶¶ 60-62.

NYCHA submitted its PHAS Action Plan to the Monitor Team on May 29, 2019. The Monitor Team reviewed the Plan, received input from HUD and SDNY, and has raised issues with NYCHA about the Plan that echo many of the concerns stated above regarding aspects of the Compliance department. Specifically, we have suggested that the Plan be modified to include: 1) greater staffing (particularly inspectors); 2) an expanded training program more clearly focused on discouraging deceptive practices by employees; and 3) changes to the Maximo work order system to eliminate current vulnerabilities, such as the easy ability to close out work orders prematurely. We will track and report on the status of these issues in our next quarterly report.

V. PRIORITY ACTION AREAS

As outlined in the federal lawsuit against NYCHA, NYCHA routinely failed to comply with lead-based paint safety regulations and failed to provide decent, safe, and sanitary housing with respect to the provision of heat, hot water, and elevators, and the control and treatment of mold and pests. The New York City and national news media have made numerous reports over many years about the plight of NYCHA residents faced with these deficient conditions.

In addition to the federal lawsuit, in 2013, NYCHA resident Maribel Baez and others sued NYCHA to force the Authority to remediate the chronic mold problems in NYCHA developments that caused many residents to suffer severe health problems. See *Baez v. NYCHA*, 13 Civ. 8916 (WHP). According to the allegations in the *Baez* case and the federal government's lawsuit, NYCHA residents made many thousands of complaints about mold growth every year. In many cases, NYCHA staff verified that the mold growth covered 10 or more square feet. In nearly 300 cases between 2014 and 2016, the verified mold growth covered more than 100 square feet. Even after NYCHA removed mold from apartments, the mold returned at least 30% of the time.

Given the seriousness of these deficient conditions and the threat they pose to residents' health and welfare, the Agreement requires NYCHA to take various corrective actions regarding lead paint, mold, heat and hot water, elevators, pests, and waste, and includes deadlines for NYCHA to submit Action Plans in each of these areas. The Action Plans must set forth policies and procedures to be adopted and specific actions to be taken by NYCHA to achieve compliance with the Agreement.

A. FUNDAMENTAL CONCERNS

All of the priority areas described above – lead paint, mold, heat/hot water, elevators, pests and waste management – share common causes that must be

addressed for any individual solution to be effective. NYCHA's housing stock is aging and years of neglect have taken a toll. Leaks in a building's "envelope" (roof and façade) are not only a problem in and of themselves but they also cause water damage that further degrades the already poor condition of the building's elevators, interior walls, garbage compactors, and boilers, among other things. It follows then that there is little sense in replacing a building's elevators before making sure the building's roof, façade, and interior pipes are in good shape.

A recent example of this problem can be seen at the Throggs Neck Houses in the Bronx. During an elevator inspection in late May 2019, a Department of Buildings ("DOB") inspector discovered that the elevator shaft in one of the development buildings had cracks, likely caused from years of water seepage. Fearing the possibility of significant structural damage, DOB ordered that the elevator be taken out of service until the shaft is repaired. Subsequent inspections in two other Throggs Neck buildings uncovered similar cracks in those shafts. Repairs in the three buildings will likely last through the summer, with elevator service planned to be restored by October 1, 2019.

A comprehensive and coordinated strategy is necessary to ensure that NYCHA's capital investments are effective and that its operational funds are not wasted. From the outset of the selection process to appoint a Monitor, the Monitor Team has recommended that NYCHA develop an integrated approach with regard to how it: 1) manages and repairs its property portfolio on a day-to-day basis, 2) defines investment needs to bring the portfolio up to safe and livable conditions, and 3) executes the needed work in a structured and efficient manner.

The team is focusing on how NYCHA's various divisions, i.e., capital planning, operations, elevator maintenance, heating maintenance, waste management, lead and mold identification and mitigation, etc., coordinate to manage NYCHA's portfolio of 2,400 buildings, which house an estimated 600,000 people in over 300 developments. The team will gather information about the NYCHA portfolio from, among other sources, the comprehensive NYCHA Physical Needs Assessment ("PNA") completed in 2017, the cost

data associated with the PNA, information from NYCHA's Maximo work order system, and the current five-year capital program of construction. That information will be overlaid onto a map of the entire NYCHA building portfolio – borough by borough, building by building, development by development – to see what specific challenges must be addressed so NYCHA can best direct its efforts based on resource availability and common sense.

The team will reconcile the Action Plans from the priority areas described above with other organizational plans to develop an underlying management system to support open, transparent, and well-considered investment planning. The team's work will include:

- *Integration of the Actions Plans into Asset Group Plans:* This will allow NYCHA to take a holistic view of the groups of assets and integrate current work practices and planned improvements with the actions that are specifically mandated in the Agreement. NYCHA can then define its total investment needs and develop a structured program to execute the required work in a more efficient and sensible manner.
- *Development of a NYCHA-Wide Property Portfolio Investment Plan (Capital Projects & Operations):* This will allow NYCHA to take a holistic view of its property portfolio needs in relation to both Capital Projects and Operations and integrate actions defined in the Agreement to eliminate duplication. The property portfolio plan will help define what projects can be aggregated to drive efficiency, and will prioritize work plans by borough, development, and unit.
- *Coordination with the Organizational Plan:* The asset group and portfolio plans, and the reports produced by KPMG, will be coordinated with existing NYCHA strategies, policies, and plans so that NYCHA and the Monitor can develop an overarching organizational plan. The structure of the organizational plan is in development and will be presented to the NYCHA management team for discussion and comment.

In reviewing the information that we have been provided to date, we have identified a number of areas where improvements could be made to increase effectiveness and cost-savings across the whole of NYCHA's portfolio. We address some of those areas below.

Warranties

NYCHA's portfolio of approximately 2,400 buildings includes billions of dollars in equipment, roofs, windows, doors, etc., that typically come with warranties and/or guarantees, operations manuals, and preventive maintenance schedules, all of which are vital to keeping these items in a state of good repair and for validating warranties when breakdowns occur. Under a warranty, the cost for repairs and associated replacement parts generally is included at no additional expense to NYCHA. In order to capitalize on these warranties and guarantees, however, they must be tracked, preventive maintenance performed, and breakdowns registered with vendors and manufacturers. Typically, this tracking is done through an asset management system such as Maximo. Unfortunately, we have found that NYCHA has not been keeping track of the majority of its warranties and does not have a full understanding of whether they are still in effect or valid based on the warranty terms. The Monitor Team has had conversations with NYCHA about these deficiencies and some divisions at NYCHA are working to correct this matter. All divisions must coordinate their efforts to ensure that such tracking occurs and that the required preventive maintenance is done so as to derive the intended value of the warranties. As discussed in more detail below, we recommend that a Maximo working group be created to coordinate NYCHA's more effective use of that system.

Local Law 11

Local Law 11 (NYC Admin. Code §11) was established in 1998 after a series of injuries and fatalities to pedestrians occurred as a result of bricks and other pieces of loose building facades falling onto sidewalks. The law requires that every building in New York City taller than six stories be checked by a qualified inspector for structural problems on its facade; if a building is found to be a hazard, sidewalk bridges must be installed over the sidewalk to protect the public until any hazardous conditions are repaired.

Compliance with Local Law 11 has been a tremendous challenge for NYCHA because many of its buildings have not been properly maintained for years. The process of conducting facade inspections, issuing contracts, and having engineers and

contractors make the repairs, and then having DOB inspectors approve the work is very time consuming. As a result, there are currently miles of sidewalk bridges and scaffolding erected around NYCHA buildings throughout the City, costing NYCHA in excess of \$30 million per year to maintain, while repairs are either being made or are awaiting to be made. While NYCHA has significantly decreased the number of sidewalk bridges and scaffolding in recent years, the number of NYCHA buildings around which scaffolding remains in place for long periods of time remains significant. Residents complain that the constant appearance of these structures around so many of their buildings is unsightly and demoralizing. Additionally, excessive scaffolding around development buildings creates safety concerns by blocking security cameras and exterior lighting, and even obstructing access to fire hydrants in some instances. The Monitor Team is working with NYCHA to identify various state-of-the art technologies that could reduce both the need for sidewalk bridges and scaffolding and the length of time they remain in place.

Temporary Housing

There has been a longstanding and ever-increasing need to temporarily remove and relocate residents out of their apartments on occasion because of circumstances involving health and safety concerns, such as fires and significant water leaks. In addition, NYCHA's current capital program calls for the repair and renovation of thousands of apartments over the next five years. There is an extreme shortage of space, however, for residents who must be temporarily displaced during this work. Often, displaced residents have been moved to other developments or into other accommodations that are not even in the same borough. This approach disrupts lives and causes residents, sometimes, to resist remediation efforts. To address this challenge, the Monitor Team has been in discussions with the Federal Emergency Management Agency ("FEMA") to explore whether NYCHA may be able to access FEMA's temporary housing stock to temporarily house displaced residents in their own developments while repair work is underway. FEMA's portable temporary housing units are built to an industry living standard and would be able to be set up in or directly adjacent to developments where residents are being temporarily displaced. If available, this

approach would keep residents in their communities and their children in their local schools.

We are also working with NYCHA to have each development draft a “Swing Space Plan” dedicating a small portion of the development’s housing stock to temporary housing so NYCHA can proactively relocate residents within developments to minimize disruption. These plans could be addressed through a Swing Space working group that would include resident input.

Working Groups for Critical NYCHA Elements

The Monitor Team has determined that the primary focus areas identified in the Agreement will be most effectively addressed, particularly in the short term, through a working group approach. The Monitor initiated this approach with respect to NYCHA’s obligations under the Agreement concerning elevator maintenance and repair. A joint Monitor/NYCHA working group has held two workshops in this reporting period during which the structure for the elevator Action Plan has been laid out using an “asset management model” which combines and coordinates operations, maintenance, and capital programming. The Monitor Team intends to utilize this structure as a framework for working groups that will be created to address Action Plans in each of the primary focus areas identified in the Agreement. It is also essential that residents are part of these processes. A reason for much of the frustration the residents have with NYCHA and the City is the failure to keep them informed.

One of the most important working groups will focus on the Maximo system and how work orders are handled. NYCHA is fond of reporting on the number of work orders it closes out. But, historically, each step in the process for a repair was represented by a separate work order. Consequently, an impressive number of work orders could be identified as “closed” without a repair actually being successfully completed. NYCHA has recently introduced a more accurate system to measure productivity but the challenges that multiple departments face concerning Maximo remain. In a nutshell, NYCHA is underutilizing Maximo in a number of key areas. The Monitor Team is working with

NYCHA to address this problem, including leveraging the Monitor Team's research and knowledge with respect to how Maximo is more effectively used by other residential management companies. The Monitor intends to utilize the working group model to bring all relevant NYCHA departments to the table to address the challenges they face in effectively collecting, organizing, prioritizing, and disseminating information in Maximo to drive operations and capital decisions moving forward.

NYCHA Budgeting Defects

The Monitor Team has identified a critical disconnect in NYCHA's budgeting and capital planning process. For example, the budget for repairing facades is calculated solely by taking the total amount of money expected to be available during a period and dividing it equally by the number of buildings that need to be repaired. In other words, each building has the exact same budget for façade repair regardless of the actual amount of work that needs to be done on site, which itself is not fully known. It does not account for the different needs and conditions of each building. Even though this method of budgeting is completely inadequate, NYCHA uses these budgets to bid out contracts. A simple inspection of the buildings likely would enable NYCHA to identify which buildings need the most immediate and costly work and how much of the budget should be devoted to them. New state-of-the-art technologies also can be leveraged to clarify the scope of required work. With these issues in mind, the Monitor Team is working with NYCHA to develop a budgeting process that will enable NYCHA to more wisely and accurately allocate funding and contract for capital improvements across its assets.

Security & Safety

While crime rates for the City overall have decreased over the last several years, the same is not true for areas in and around NYCHA developments, where violent crime and shooting in particular remain a serious problem. Citywide programs in connection with safety and security have been and continue to be a priority for City Hall and the various local prosecutors. NYCHA's responsibilities to combat systemic issues associated with crime prevention go beyond working with law enforcement partners and the current programs and measures being undertaken by The Mayor's Office of Criminal

Justice (“MOCJ”) and the Mayor’s Action Plan for Neighborhood Safety (“MAP”). Though NYCHA has already implemented some measures to make the developments safer, more can be done.

As the Monitor Team has engaged with residents, community organizations, and housing partners, we have encountered frustration and concern related to the maintenance of security infrastructure that is intended to deter criminal activity and identify perpetrators when illicit activity does occur. The Monitor Team has made observations of clear security risks at developments, including chronically broken entry door locks and vandalized door closers, lack of maintenance and repair of security cameras, and obstructed camera and lighting sightlines. As a result, NYCHA buildings become easily accessible to trespassers and others who should not be entering them. When crimes do occur, law enforcement efforts are often hampered by the lack of cameras and/or effective lighting.

In the coming months the Monitor Team will continue to investigate resident concerns regarding safety and security and will incorporate security infrastructure into our broader review of procurement, maintenance, and capital planning at NYCHA.

Understaffing and Lack of Staff Supervision at Developments

During Monitor Team visits to many of the developments, it appeared that the number of caretakers, housing assistants, administrators, and/or other maintenance personnel was often insufficient for the work they are to accomplish. As a related problem, in our interviews of both Tenant Association Presidents (“TAPs”) and development staff, the lack of adequate training and supervision of development personnel was also reported as common. Whatever the causes, deficient staffing and insufficient training and supervision of development staff are circumstances that directly and significantly affect the living conditions for residents. Overflowing dumpsters and other trash receptacles, litter and general uncleanliness in and around development buildings, and ineffective and unreasonably time-consuming administrative processes in development offices are some of the results. Additionally, as the Monitor Team begins

collaborating with NYCHA to create Action Plans for infrastructure systems such as heat/hot water and elevators, it is becoming clear that local development staff are going to have even more responsibilities. For example, a common cause of elevator breakdowns is trash and other foreign objects interfering with elevator door operations. A new proposal from NYCHA's Elevator group is that caretakers start their shifts by cleaning in and around elevator doorways on every floor, a time-consuming job. These issues of staffing, training, and supervision are important in all the working groups with which the Monitor Team is engaged.

B. LEAD-BASED PAINT

In connection with the federal lawsuit, NYCHA admitted that it made false certifications to HUD about its compliance with federal lead paint safety regulations. NYCHA also made the following admissions regarding lead paint in NYCHA developments:

- In more than half of NYCHA developments, NYCHA's inspections (including statistical sampling) have confirmed the presence of lead paint somewhere on the premises, and in at least 92 developments the inspections (including statistical sampling) have confirmed the presence of lead paint inside apartment units.
- Since at least 2010, NYCHA has not performed most of the biennial lead paint risk assessment reevaluations required by regulation for developments containing lead paint. In a 2011 email, a NYCHA director advised a NYCHA executive that NYCHA was not conducting required risk assessment reevaluations.
- From at least 2012 to 2016, NYCHA failed to perform visual assessments of apartments for lead paint hazards as required by regulation. In 2016, NYCHA began performing visual assessments in units where children under six reside, but NYCHA has not yet performed visual assessments in the majority of apartments that may contain lead paint.
- Since at least 2010, NYCHA has not ensured that staff uses lead-safe work practices when performing work on surfaces that may contain lead paint. NYCHA's policies and procedures do not ensure that maintenance workers are informed that the surfaces they work on contain lead paint. Less than one-third of the maintenance workers assigned to NYCHA developments with lead paint are trained in lead-safe work practices. In May 2016 email, a NYCHA executive advised that "there [were] only 33 paint[ers]/paint supervisors trained in lead safe

practices” working in Brooklyn developments. NYCHA has determined that at least 12,000 apartments in Brooklyn developments may contain lead paint.

- From at least 2010 until 2015, NYCHA did not provide HUD with any information regarding children living at NYCHA who had been found to have an environmental intervention blood lead level (“EIBLL”).

In light of these admissions, the Agreement requires NYCHA to take wide-ranging corrective actions that are specified in Agreement Exhibit A. Among other things, NYCHA must: 1) take specific, exigent measures to protect children under six years of age from the serious health risks of lead-based paint through assessment of lead-paint units and the application of lead paint interim controls or abatement as required; 2) abate all lead-based paint in NYCHA properties (pursuant to detailed action plans executed over the course of twenty years); 3) strictly comply with federal regulations applicable to renovation, repair, and painting work done in apartments presumed to contain lead-based paint and take measures to ensure adherence to lead-safe work practices; 4) perform annual visual assessments and biennial risk assessment evaluations; and 5) take specific measures to detail, assess, investigate, and abate lead-based paint units and common areas connected to children under six found to have elevated blood lead levels.

The Monitor’s lead-paint team is overseeing NYCHA’s compliance with the Agreement and with applicable lead paint laws. Accordingly, we have conducted numerous meetings with senior NYCHA leadership and commenced a methodical review of NYCHA’s policies, procedures, and actions with respect to lead-based paint identification and remediation. We have interviewed a wide range of NYCHA personnel including leaders and deputies from NYCHA’s Healthy Homes and Operations Units (as well as Technical Services, Maintenance, Repair and Skilled Trades and Management and Planning departments), as well as all borough directors and all regional asset managers (“RAMs”). Team personnel have begun on-site interviews of property managers and superintendents, and are using access to NYCHA information systems, including Maximo, to track how matters are created, worked, and closed (and to identify responsible personnel), including whether work order “tickets” are handled appropriately

and on a timely basis. Monitor Team field personnel on the ground observe and report on NYCHA's actions at the developments.³

As a preliminary matter, before we turn to NYCHA's actions under the Agreement, we note that our interviews have indicated that NYCHA lacks a comprehensive strategic policy to address the many issues surrounding lead-based paint. Many interviewees perceive NYCHA's senior leadership as still trying to find the proper way to conceive and execute a policy that is efficient, ensures compliance with laws and regulations, and effectively spends money. This policy must be understood and, most importantly, implemented at the local level.

"Headquarters" is often perceived as reactive and unhelpful. We were told by a number of RAMs that they were transferred to new jurisdictions last summer with little or no advanced notice and no explanation as to why. In many cases, these managers lamented that the great effort they had made fostering constructive relationships and learning the details of their properties was wasted. They had to begin the process anew in their new locations. This appears to be a strategy at NYCHA – move people around so that no one knows the history of the development in which they land and no one takes responsibility as they are new to the site.

A well-conceived management policy will have to consider and address ill-defined responsibilities and deliverables of mid-level managers, lack of accountability, lack of appropriate staff (down to the lowest levels), over-reliance on expensive requirements contracts (held by vendors with too much leverage provided by exclusivity), the relative inexperience of ground-level personnel with techniques to properly address lead paint and mold remediation issues, lack of discipline in electronic record keeping, and a lack of understanding of how to properly assess and estimate capital needs and communicate them to headquarters (up through the borough directors from the development level).

³ As an aide to monitoring and assessing NYCHA's performance, we have on our staff an expert in lead-safe work practices who was the principal author of the first edition of HUD's authoritative work "*Guidelines for the Evaluation and Control of Lead-Based Hazards in Housing*."

Many managers and superintendents feel that developments were disempowered – and operations made more difficult – with the transition (in around 2009) to reliance on technology and the creation of the work order system to respond to resident complaints.

There also appears to be a need to improve communication between departments dealing with lead paint and mold issues (e.g., Operations/Skilled Trades and Healthy Homes). Lack of effective communication can result in redundancy or neglect of action items. Properly assigned ownership of deliverables is an urgent challenge, as is oversight of conformance to applicable laws and regulations. NYCHA must clearly state – individually and collectively – who is responsible for ensuring compliance with lead-based paint regulations and laws and lead-safe work practices. In assigning such responsibility, the methodology for ensuring compliance should be clearly stated. Finally, the resources available to ensure such compliance must be sufficient (recognizing the need for efficient deployment).

There are clearly many talented and well-intentioned people at all levels and departments at NYCHA with years of experience in effective problem solving. They have good insights into what works and what does not. They need a management structure that will allow them to flourish.

Within 30 days after the Agreement was signed, NYCHA was required to identify all developments, and the units therein, that were built prior to 1978 and are not otherwise exempt from lead-paint regulations, i.e., those units which potentially could be contaminated with lead-based paint. NYCHA was further required to submit an “Immediate Action List” identifying the subset of those units that NYCHA has reason to believe are “occupied or routinely visited” by a child under six years old. The Agreement mandates that NYCHA perform a visual inspection of each unit on the Immediate Action List (unless an appropriate inspection was already done in the preceding year), and eliminate any hazards using interim controls or abatement.

The Agreement also requires NYCHA to provide documents that are sufficient to show NYCHA's basis for claiming that particular developments are exempt. If HUD and the SDNY reject that determination, and those units would otherwise have been on the Immediate Action List, NYCHA then has 30 days to visually inspect and apply interim controls or abatement. Agreement Exhibit A ¶¶ 4-7.

Our primary concern was that, as we learned from interviews and which was subsequently confirmed by NYCHA senior management, NYCHA relied exclusively on existing residence records (obtained largely through forms filled out by residents in the annual recertification process) which are admittedly unreliable to determine if a child under six resides in or regularly visits any NYCHA unit that is presumed to contain lead paint.

If the goal is to protect the children, we expect NYCHA to make a better effort to find out where they live rather than relying solely on deficient records. According to NYCHA, its developments have an overall population of about 400,000 residents. The Department of Sanitation estimates the number closer to 600,000, and other estimates go even higher. We do not know how many children under six are within the larger estimates. No one at NYCHA has asked. Nor were residents informed or asked to assist in this effort to identify these at-risk young children.

On May 30, 2019, the Monitor sent a letter to the NYCHA Interim Chair and CEO to document various concerns about NYCHA's handling of important matters relating to lead paint and related testimony by the Interim Chair before the City Council on May 7th. The following concerns were documented:

- NYCHA has not been making an acceptable effort to identify lead paint units inhabited or routinely visited by children under six;
- NYCHA's projection that XRF testing⁴ of some 135,000 apartments will be completed by 2020 is unnecessarily optimistic and should be amended;
- NYCHA records purportedly demonstrating the lead unit exempt status of

⁴ "XRF" stands for x-ray fluorescence, a technology featured in hand-held devices that when placed in proximity to a wall or other component of a room shows a count of lead particles in a painted section.

- over 50,000 have not been approved by the Monitor (who does not have this responsibility) and are being reviewed by HUD and the SDNY;
- The Monitor Team learned through its own inquiry, not from NYCHA disclosure, of certain contractors not conforming to lead-safe work practices; and
 - NYCHA cannot clearly identify who is in charge of and accountable for properly addressing lead paint matters.

The letter concluded with a recommendation to NYCHA that the following steps be taken:

- Promptly take steps to clarify the Interim Chair and CEO's testimony for the City Council and the public;
- Immediately develop a plan acceptable to the Monitor to identify apartments in which children under six reside or regularly visit and make that plan public;
- Arrange priority XRF testing of apartments containing lead paint and routinely visited by children under six not previously scheduled for testing and make that schedule public;
- Announce a realistic schedule for completing the current XRF testing;
- Meet with the Monitor and representatives of HUD and the SDNY to 1) disclose and explain any pending inability to promptly and lawfully comply with lead-based paint responsibilities under the Agreement and federal law and to 2) discuss your purported evidence supporting unit exemptions, including giving a presentation supporting your claims of exemption, and then, make the evidence public;
- Establish a "Lead Project Page" on the NYCHA website which is easily accessible and populate that page with project details, goals, and status reports as well as how NYCHA is ensuring compliance with the Agreement and federal law.

The Interim Chair and CEO responded by her own letter, sent May 31st, in which she strongly disagreed with many of the propositions in the Monitor's letter. Later that day, however, the Interim Chair and CEO submitted a Certification acknowledging that NYCHA had been unable to fully comply with the Agreement provisions described above. The Chair also submitted a companion document euphemistically entitled "Exhibit A, Paragraph 30 Certification Corrective Action Plan," which identifies key areas of non-compliance and provides NYCHA's short-term and long-term strategy for improvement. These letters and documents are attached collectively to this report at Appendix 5.

Among other things, the Certification reports that:

NYCHA cannot certify at this time that it has fully complied with the Lead Safe Housing Rule, the Renovation, Repair and Painting Rule, and the Abatement Rule (“the Rules”) for the Immediate Action List Sites. As explained in the annexed Corrective Action Plan, NYCHA has improved its compliance with the Rules, but shortfalls remain in key areas, particularly with regard to recordkeeping, clearance examination, and resident notification....Based upon the data entered into the system of record as of May 31, 2019, NYCHA is awaiting clearance examination laboratory results for 905 Immediate Action List units and still needs to perform clearance examinations in 618 Immediate Action List units. Of the 618 units, NYCHA has made attempts to perform the clearance examinations in 503 units.

NYCHA’s Certification and Corrective Action Plan is a frank admission of an unacceptable level of deficiencies, from the quality of the interim controls to the number of units that have not been cleared. The NYCHA Lead Hazard Control Unit appears to be struggling to achieve its intended purpose (particularly so without a Director and a need for personnel to fill vacancies), and urgently needs support. Means of regular and purposeful communication with Operations, Compliance, and Health and Safety Department personnel must be considered and implemented. Though we are heartened by the earnest attempt of the Corrective Action Plan to admit material deficiencies, the apparent doubt about the quality of certain interim control measures and the backlog of pending clearances can fairly be considered an emergency, as children under six could be ingesting lead particulate if these units were not adequately cleaned after the interim controls were applied. From April through June 30th, we have received email notification from NYCHA of 10 reports to HUD regarding children residing in NYCHA properties found to have elevated blood lead levels. We also inquired about totals this year. Since the beginning of the year, NYCHA has reported to HUD a total of 18 cases of children with elevated blood lead levels (as of June 30th).

The proposed corrective action plan admits that the clearance process required by HUD cannot currently be handled by NYCHA. Post-work cleanup and dust wipe work required by federal regulations has in many cases been conducted many weeks after the

underlying lead remediation work was conducted in presumed lead paint units. Residents have in these cases reoccupied the work areas prior to clearance (accomplished after dust wipes are tested for lead content by a certified lab) and a report being issued. Our field team has encountered and recorded NYCHA personnel conducting clean-up work in occupied apartments (mopping, “Swiffer” dusting of floors and dusting of window components) in anticipation of dust wipe samples being taken just moments later. Resident possessions were seen in close proximity to the cleaning work (in one instance, including a stuffed animal).

With its current capacity (by contract with a vendor), NYCHA has stated that it can at best obtain lab results for clearance for about a hundred units a day (and then usually in about three days from dust wipe samples being obtained). To meet its current clearance testing needs, NYCHA needs to obtain at least 250 results – and that number may be as high as 300 when other units receiving work (not involving children under six or urgent attention) need to be cleared. Synching up timely scheduling is also difficult. NYCHA’s Healthy Homes Department handles vendor clearance contracts and scheduling using a manual process involving use of spreadsheets. NYCHA confirmed these details in a meeting with the government (and attended by the Monitor Team) on June 11th.

As recently as September 2018, NYCHA was unable to report to the government that its workers engaging in renovation, repair, and painting work likely to disturb lead paint (“RRP” work) had been able to fully comply with the RRP Rule (an EPA rule requiring special precautions be taken and techniques used if six square feet or more of any section of an apartment presumed to contain lead paint is disturbed; see 40 C.F.R. part 745, subpart E). In fact, the norm was that some violation of the Rule would occur in all jobs – whether the failure was in one or more categories such as inadequate warning signs, improper setup, improper work methods, or cleanup failures. Our review indicates that adherence to the Rule has not been uniform nor has it been strictly enforced or supervised by NYCHA (and ownership of such responsibilities has not been clear). Until recently, awareness, training, and proper supplies were not ensured.

Site visits and interviews indicate that though the situation is improving, great challenges are still be faced. The Agreement requires NYCHA to adhere to lead-safe work practices set forth in the Lead-Safe Housing Rule (24 C.F.R. part 35, subparts B-R) and the RRP Rule. According to NYCHA, training of development staff has been given to over 95% of the applicable NYCHA workers (approximately 2500) and is required of new employees who will perform such work. RRP “kits” required by the Agreement (containing supplies necessary to properly perform RRP work) are in NYCHA storerooms across the City and are being replenished as they are used. We have conducted random spot checks of storerooms and have found the kits to be in place. A team of some twenty inspectors from the New York City Department of Sanitation (“DSNY”) has been loaned to NYCHA to conduct impromptu inspections of vendor work subject to the Rule.

Though a trend of improvement is indicated, a formal assessment of compliance with the Rule will have to be accomplished through appropriately-timed audit work. As discussed above, there is also usually a lag of many weeks between completion of RRP work and completion of required dust wipe and clearance work.

Further, NYCHA will have to implement a self-sufficient method of inspecting its own and vendor compliance with lead-safe work practices. We learned in an interview conducted in late April that DSNY inspectors working on behalf of NYCHA had found vendor personnel violating the RRP Rule. The process NYCHA uses to respond to such violations involves the immediate shut down of the job until compliance is achieved and the issuance of a “Direction to Perform” letter to the vendor that the firm is in breach of its contract, itemizing the improper practices. The letter requests a reply from the vendor describing how it will ensure RRP requirements on all jobs it will perform. Vendors are also informed “NYCHA has the right to consider moving toward contractor default for failure to complete the contract work in compliance with the contract.” We are aware that eight vendors have received such letters on at least one occasion. Three vendors have received more than one such letter.

We are committed to working with NYCHA (with guidance from our lead paint expert) to find a way to expeditiously ensure that all of the Immediate Action units that received interim controls are safe for residents. A regular weekly “lead process” meeting between the Monitor Team and NYCHA was initiated on June 12th. Through this meeting, we also have begun a constructive dialogue with NYCHA on means that may be used to identify where children under six live or regularly visit.

In light of our above observations and concerns, we are discussing the following proposals, among others, with NYCHA in order to improve the documentation and execution of lead-based paint testing and removal:

- Assembling, organizing, and feeding all data from the lead testing performed by NYCHA in the early 2000s into a suitable database that can be integrated into Maximo;
- Using the testing data from the early 2000s to exempt renovation, repair, and painting work in lead-free units;
- Establishing a policy that vendors who perform RRP work who are found to violate the RRP Rule three times (upon substantial evidence) will be terminated and suspended from additional work for an appropriate period;
- Engaging in an ongoing resident awareness and education campaign, with the assistance of resident associations and community leaders, to inform residents of the dangers of young children and pregnant women ingesting lead paint particulate and the benefits of letting NYCHA know where children and pregnant women reside and regularly visit;
- Ensuring that data relating to children under six living in or regularly visiting apartments is accurately recorded and promptly updated in Maximo;
- Revising all tenant disclosure forms to make them more user-friendly and clearly understandable;
- Making NYCHA policy towards requesting approval for temporary or permanent additions to a household less intimidating, and indicating where a resident can assume the permission will be granted (such as births, adoptions, authorized foster children);

- Tracking and reporting monthly to the Monitor Team the time elapsed between closure of an RRP work order and completion of the dust wipe work order; and
- Delineating the required communication between the Healthy Homes Unit and the Health and Safety and Compliance Units and permit overlap of deliverables only where desirable.

We have also pointed out to NYCHA that it must decide on an acceptable methodology for clearance procedures. HUD guidelines state that residents should be excluded from RRP work areas until clearance is issued. See Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Office of Healthy Homes and Lead Hazard Control, Second Edition, July 2012 (“HUD LBP Guidelines”), Chapter 8: Resident Protection and Worksite Preparation. We have emphasized that the following ideas also be given appropriate consideration:

- An analysis of temporary housing options and associated problems;
- Purchasing XRF testing devices that can be used by NYCHA to determine if particular work will be disturbing lead paint (and to field test dust wipes);
- Shifting a portion of the XRF testing teams currently in the field to testing units scheduled for RRP work.

For the foregoing propositions, we asked that NYCHA include a fact-based analysis for each area in order to allow an objective assessment of feasibility and benefit. Finally, we asked that, in order to move up the kickoff date, NYCHA consider whether it could apply more assets to the data entry and system building project currently scheduled to be completed in September (to incorporate the early 2000s data to see if units are exempt from the RRP Rule).

We are also suggesting to NYCHA that, generally speaking, there should be greater outreach by NYCHA to City agencies, such as the New York City Human Resources Administration for residents receiving public assistance benefits, schools, and day care centers, that might have information about children under six residing in NYCHA developments. If certain information is confidential, such entities could be asked to

contact parents/guardians directly. Additional methods of locating children under six and educating residents are also being discussed with NYCHA, including 1) how development staff might be able to formally report observations indicating the presence of young children, 2) ensuring that any annual visit to apartments made by maintenance persons and housing assistants inquire about children under six who are residing in or regularly visiting the unit, and 3) launching an awareness campaign with tenant associations that pointedly alerts residents to the dangers faced by young children and pregnant women when exposed to lead paint and informs them of the benefits of disclosing when they live in and regularly visit NYCHA apartments.

C. MOLD

As described above, the *Baez* lawsuit showcased the chronic mold problems in NYCHA developments and the ensuing threat to residents' health. The suit resulted in a Consent Decree which attempted to create a framework for resolving the mold epidemic. In accordance with the Consent Decree, the Court appointed a Special Master to, among other things, monitor compliance with the Decree, formally communicate with the parties regarding compliance issues, and make recommendations to the Court as necessary in an effort to improve compliance. After deficient performance by NYCHA pursuant to that Decree, the Court approved a Revised Consent Decree in late November 2018. A revised Standard Operating Procedure ("RSOP") was also crafted that required NYCHA to train all personnel involved in mold remediation work in order to: 1) promptly inspect and confirm mold complaints, 2) use appropriate instruments (for example, a scope passed through a small hole made in a wall to visually assess root cause), 3) use proper remediation techniques, and 4) keep proper electronic records of initial inspections, remediation work, and information regarding root causes of mold outbreaks.

As of the date of this report, the "Mold Busters" program associated with the RSOP has been implemented in most, if not all, of NYCHA's developments. NYCHA reported to the Special Master in November 2018 that it had met the August 30, 2018 deadline for

revising the design of the Maximo system and its handheld devices to create and track mold work orders and was on schedule to meet all deadlines for the implementation of the RSOP. The RSOP and Revised Consent Decree also called for the appointment of three additional offices, that of ombudsperson, independent data analyst, and independent mold analyst.

The Agreement requires NYCHA to comply with the terms of the orders in *Baez*. In addition to enforcing the *Baez* requirements, the Agreement imposes other responsibilities on NYCHA. Among other things, within two years of the effective date of the Agreement, NYCHA must respond to a mold complaint within five business days in 95% of instances, and then must meet additional deadlines in effecting the necessary repair work. Within five years of the effective date of the Agreement, for 85% of verified mold complaints, NYCHA must take steps to prevent any second verified mold complaint in the same unit or common area within a 12-month period. Agreement Exhibit B ¶¶ 15-20.

To oversee NYCHA's compliance with the Agreement and *Baez*, the Monitor Team has met with the Special Master and received his considerable insight regarding the mold problem. The Monitor Team also communicates regularly with the attorneys for the *Baez* plaintiffs as well as NYCHA staff and resident advocates. The Monitor's field and resident engagement teams are also regularly receiving information -- often discouraging -- directly from residents.

Our interviews indicate that NYCHA is struggling to comply with *Baez*. The RSOP requires that a minor mold occurrence be remediated within seven days of confirmation by inspection and a major occurrence within 15. Many of the NYCHA personnel interviewed said NYCHA is not able to meet these deadlines because of lack of resources.

We have reviewed NYCHA's mold-related data for the two most recent ninety-day cycles for which it is available (August through October 2018 and November through January 2019). The data was submitted by NYCHA in the *Baez* case. NYCHA's data is

of limited utility as it shows statistical analysis for only those mold work orders that have actually been closed. Thus, the following statistical comparisons apply only to closed work orders:

- For the August through October cycle, it took on average 8.3 days to address and close mold occurrences that should have been closed within seven days (according to the RSOP). For the November through January cycle, that average was reduced to 6.7 days.
- For the August through October cycle, it took on average 18.9 days to address and close mold occurrences that should have been closed within 15 days (according to the RSOP). For the November through January cycle, that average was reduced to 14.9 days.
- 4,344 “7-day” work orders were created in the August through October period. 3,327 were closed. Of those closed, 62% were closed within 7 days. 5,924 “15-day” work orders were created in the period. 2,424 were closed. Of those closed, 48% were closed within 15 days.
- 3,293 “7-day” work orders were created in the November through January period. 1,805 were closed. Of those closed, 69% were closed within 7 days. 3,960 “15-day” work orders were created in the period. 1,006 were closed. Of those closed, 67% were closed within 15 days.

From November 2018 through January 2019, NYCHA reported 1,986 work orders within 60 days of work order closure. Of 1,613 “successful contacts” (with residents), 846 orders (~52%) were “successfully completed.” Mold reoccurred in 762 of these cases (47%) and had to be followed up with new work orders.

One possible explanation for some of the delays offered by development personnel is that, among other provisions, the Mold Busters program requires that only workers with mold certifications perform initial inspections of mold complaints filed by residents. Initially, this created a backlog, because only superintendents were trained and certified, and the inspections took away from their day-to-day tasks. Now, however, assistant superintendents, supervisors, property managers, and assistant property managers have received Mold Busters training to alleviate the backlog of initial inspections. NYCHA personnel report that the Mold Busters training was generally informative and helpful.

However, many Directors and RAMs acknowledged that because superintendents generally are responsible for both the initial inspection of a mold occurrence and the post-work quality assurance assessment, there is a potential conflict of interest because the superintendents evaluate their own team's work.

There are contributing factors to the mold epidemic that also must be addressed in crafting a comprehensive and long-lasting solution. Ventilation, for example, is important in combating mold. Residents, however, may not want to open the bathroom window during winter, or may block the bathroom vent with tape to prevent pests from getting into the unit. Additionally, although malfunctioning roof fans have for years been a source of concern and frustration, interviewees have generally stated that most roof fans are now usually operational. NYCHA has expressed reservations to us about the reliability of roof fan data in Maximo, which may not accurately reflect how many roof fans are broken at any given time. Further, many of the fans are old and have been repaired, and may not be providing the ventilation necessary to be fully effective. Another factor is duct work that has not been cleaned in decades (or ever). NYCHA's Healthy Homes Office has drafted a plan to address the roof fan issues, including by replacing belt drives with direct drives, safely cleaning all duct work, and using high definition aerial images to assess roof fan operability. We understand that \$50 million in funding has been approved for the foregoing.

The procedural improvements arrived at through the *Baez* case are important in driving NYCHA to do better in remediating mold on a timely and immediate basis. However, significant root causes of many mold outbreaks and recurrences are leaks caused by pipes, roofs, and porous building exteriors. The great majority of persons interviewed attributed leaks to porous roofs and building exteriors, as well as deteriorating pipes that are well past their life span. Often, cutting and replacing sections of piping only moves the points at which water pressure causes a leak farther down the system. As one senior Healthy Homes executive said, to truly address the root causes of mold and prevent recurrence, gut renovations of entire buildings should be performed which would of course require significant capital expenditures and resident relocation. According to

interviews, there is currently widespread uncertainty as to how to formally request capital funding to address porous building envelopes, roofs that must be replaced, and pipe systems that chronically leak. Responsible personnel had formerly used a specific form identified as “Form 040.301” to document requests. However, multiple interviewees said that it is no longer recognized and acknowledged; no replacement process has been explained or implemented.

Aside from needed capital improvements, we have repeatedly heard accounts of developments being short-staffed at all operational levels. In some cases, temporary workers are utilized to fill gaps on a short-term basis. Painters and plumbers are particularly in short supply, which has an impact on mold work order closure times. Further, Directors and RAMs have explained that because of a deficient number of plumber helpers (traditionally matched with a journeyman), for some work plumbers are paired with other journeymen plumbers (who of course must be paid higher wages and benefits than helpers). Further, because of the great demand for the services of plumbers, much work is completed on overtime.

The shortage of skilled trades is also making it difficult to properly sequence repairs. Skilled Trades Planners are responsible for scheduling particular trades assigned to them and they must carefully coordinate the trades in proper sequence so that residents are not left waiting for repairs and completion of jobs. Property managers and superintendents have expressed frustration with the “Alternate Work Schedule” which restricts their ability to modify workers’ schedules to ensure the development has full coverage (and that people are not working alone) during afterhours. Property managers and superintendents also cannot approve overtime for their staff. Approval is required from both the RAM and Borough Director, and possibly the VP of Operations. It is difficult for borough office personnel, who are not in the field, to determine whether overtime is actually needed. Vacancies are often left open for long periods of time, often for 60 to 90 days. In part, this is due to required lengthy New York City Department of Citywide Administrative Services (“DCAS”) and New York City Civil Service procedures. Property managers and superintendents have no influence in hiring their employees. NYCHA’s

Human Resources Department determines whom they get. We were informed of one instance where a housing assistant who has never used a computer was hired.

In the next quarter, we will continue to work with NYCHA to address these and other issues related to timely and effective mold abatement. Two of the oversight offices contemplated by the *Baez* Consent Decree (independent mold analyst and independent data analyst) have recently been approved by the Court. Thus, the record of progress on mold (or lack thereof) should shortly become more reliable. It should be noted that the Special Master in *Baez* asked the Monitor to consider ultimately assuming oversight responsibilities within the framework of the *Baez* matter. After due consideration, particularly with the appointment of independent experts in *Baez* to track and assess NYCHA's compliance with Court-approved procedures, we believe that the current independent methods of oversight should continue. We will of course regularly communicate with the officials and parties in *Baez* and will watch closely to see what results can be achieved.

D. HEAT AND HOT WATER

As with all NYCHA building infrastructures, heat and hot water systems at the developments are overseen by both Operations under the Heating Management Services Department ("HMSD") and Capital. Capital is responsible for the replacement of aging building boilers and other related equipment, and HMSD is tasked with the maintenance and repair of this equipment, all to ensure that residents receive proper heating and hot water services. Without more comprehensive planning and execution by NYCHA (beyond HMSD) to coordinate the improvement of *all* NYCHA's building infrastructure, NYCHA will not significantly overhaul these heating and hot water systems, or even maintain the recent gains made in reducing heating system breakdowns. The Monitor Team, with the assistance of our building system and infrastructure experts, is focused on working with NYCHA to both improve the immediate plans needed to better maintain

NYCHA's heating systems as well as on the more expansive and coordinated strategy for the overhauling of all of NYCHA's building infrastructure systems.

The Agreement requires that NYCHA produce an Action Plan, as well as meet various performance-specific deadlines regarding heating services to residents. Most significantly, NYCHA must submit its Action Plan to the Monitor by October 1, 2019, which must address how NYCHA will assess and respond to heat outages across its portfolio of buildings. Specifically, the Action Plan must identify for each development how NYCHA will respond to heating outages, accounting for 1) resident populations, 2) historical data about prior outages, 3) availability of on-site and remote maintenance personnel, and 4) response times. The plan must include provisions for alternative "heated community spaces" for any heat outages that are anticipated to be of substantial duration. Lastly, the Action Plan must address NYCHA's policies for closing out work orders when the resident is not home or otherwise does not provide access to the apartment to resolve the heating outage. The plan must be made available to residents and posted online.

In addition, NYCHA must meet certain performance goals, many by the close of 2019, in which it is to reduce both the number of heat outages at developments and their duration. NYCHA is also tasked with performing additional analysis regarding the causes of outages and the efficiency with which maintenance crews fix the problems and return heat service. Agreement Exhibit B ¶¶ 1-14.

As part of our outreach and engagement with NYCHA residents at the developments, the Monitor Team had numerous discussions and observed multiple instances of building infrastructure breakdowns, including of heat and hot water systems. The Monitor Team also met with all levels of NYCHA staff tasked with oversight of heat and hot water systems, from both the Operations and Capital divisions.

The Executive Vice President for Capital Projects and staff explained the schedule for boiler replacements and the strategy used for that process. Replacing a boiler at a development usually requires that the entire boiler room be rebuilt (adding substantial

time and cost to the project.) Limited capital budgets have forced a sequencing of boiler replacements, usually only at the point when they are completely non-functioning and beyond repair. For many years now, the schedule to install new boilers has not kept pace with the need to replace existing boilers as they failed to the point of being beyond repair. Unfortunately, NYCHA has relied on the use of temporary boilers as both a short and long-term heating strategy, rather than devising a capital plan to timely replace its aging and ailing boilers when needed.

We also spoke with the head of Operations Support Services (“OSS”) and several staff regarding the maintenance and repair of boilers and other related equipment. The current head of OSS started at NYCHA in the early Fall of 2018, mobilized HMSD staff and established the Central Heating Alarm System so that plumbers and electricians could be dispatched on a 24/7 basis to respond to heat outages. The OSS head also created the NYCHA Situation Room to enable essential personnel to gather information and coordinate both responses and resources during particularly cold weather. As a result of these efforts, unplanned heating outages across NYCHA developments dropped from 4,171 in winter 2017/2018 to 3,101 in winter 2018/2019, according to data from NYCHA. We were also informed by NYCHA that the average length of unplanned outages dropped from 25 hours to 9 hours – or by 64% – for the same time periods. We are confirming that these numbers accurately reflect the total time of the outage and not only the time onsite repairing the boiler.

We interviewed members of the Maintenance Repair & Skilled Trades Department, many of whom have been with NYCHA for decades. They not only staff HMSD but also the skilled maintenance departments for all NYCHA’s infrastructure systems, from elevators to waste management equipment. They informed us that the failings of the heating systems, like all NYCHA’s infrastructure equipment, have two main root causes – the current equipment is in use well beyond its intended lifespan, and there has been insufficient comprehensive preventive maintenance of this equipment for many years.

The Monitor Team also attended a Teamster Local 237 meeting and interviewed many of the maintenance workers. They complained that due to severe cuts in skilled trade worker staff over the years, they are now being worked to the point of exhaustion in an attempt to keep building services from declining even further. They said in addition to extended shifts, they also often must work under dangerous conditions. An example they provided was having to perform electrical work on boilers or elevators in building basements with significant flooding and being fearful that at any moment they could inadvertently electrocute themselves.

The primary focus of the Monitor Team has been working with Operations on both the Action Plan for heat and hot water and the related performance deadlines that are mandated under the Agreement. As part of that effort, we are working collaboratively with the HMSD on their heating system strategies for both preventive maintenance and reactive maintenance plans (including a response plan for emergency heating outages). An early challenge for moving forward more effectively is to start returning the size of NYCHA's skilled work force to what it was some years ago when preventive maintenance of all equipment could be accomplished and was done.

The Monitor Team has also joined Capital and Operations in their larger plan to rebuild NYCHA's entire building infrastructure. The favorable results of HMSD's recent maintenance plan are likely unsustainable, given 1) limited NYCHA plumber and electrician staffing, 2) the extremely poor condition of so many boilers and other heating-related equipment across all the developments, and 3) the severe problems that beset all NYCHA's infrastructure systems and compound the problems with every individual system. The Monitor Team is working with NYCHA to develop a plan to address these infrastructure issues.

As NYCHA has switched its fuel source for its building boilers from heating oil to natural gas, which is both an economic and environmental improvement, it now has a store of heating oil totaling approximately 2.6 million gallons located in tanks at several developments. The Monitor Team has offered to assist NYCHA in navigating the logistics

of selling this oil, including helping to locate potential purchasers and trucking companies that can transport the heating oil from tanks at developments to the purchasers. Not only would the sale of this heating oil benefit NYCHA financially, but it would also enable NYCHA to then either remove or remediate the oil storage tanks to avoid potential environmental hazards such as leaks in the tanks as they age and deteriorate.

E. ELEVATORS

As with all the other major infrastructure systems in NYCHA buildings, the working condition of elevators at the developments significantly impacts the daily lives of residents, especially the elderly, the very young, and residents with mobility concerns. According to NYCHA, 92% of its resident buildings, or about 1,625 buildings, are serviced by a total of 3,237 elevators. The Elevator Service and Repair Department (“ESRD”), with a staff of approximately 430, manages the operations of NYCHA’s elevators, with a budget of almost \$75 million for FY 2019. As indicated below, NYCHA’s own data establishes that elevator service for its residents is often unreliable. Making matters worse, residents are frequently left with little information as to when service is likely to be restored or what they are to do in the interim to manage access to and from their apartments. Using building stairwells, which generally have their own issues such as poor lighting, garbage and other filth, and other safety concerns, is the only current alternative.

NYCHA assesses its elevator service performance by looking at the number and duration of its elevator outages. In 2018, NYCHA data indicated that each of its elevators was out of service an average of 1.13 times per month, with an average duration of just over 12 hours, before they were back in operation. We were told by NYCHA personnel that NYCHA has traditionally calculated the duration of an elevator outage from the time the repair persons enter the outage into Maximo to the time when service is restored -- not from when the outage actually began. This appears to be a topic of confusion within NYCHA; on a separate occasion, we were advised that in recent years elevator outage

times have been tracked in Maximo from the time the first call is made. We are working to get a more accurate understanding of NYCHA's existing data. However, the confusion within NYCHA demonstrates again the need for accurate metrics that NYCHA personnel can understand and uniformly implement.

NYCHA reports that outages are most often caused by 1) equipment failure, 2) power outages to the building, 3) water intrusions in the building which disable the elevator(s), 4) scheduled preventive/corrective maintenance, and 4) vandalism. The duration of outages usually depends on the complexity of the repair, availability of ESRD repair staff, and/or availability of needed replacement parts.

NYCHA's new head of OSS has implemented a more strategic plan for responding to elevator outages. Immediate improvements in NYCHA elevator service are unlikely due to a significant shortage of ESRD maintenance workers and because the existing NYCHA elevator portfolio is largely beyond its expected lifespan and/or otherwise in poor working condition. Elevators are expensive to replace and take many weeks to install. Additionally, the stock of new elevators ready for installation is limited given the significant increase in new building construction in the New York area over the last few years. Even with a sufficient increase in funding, NYCHA cannot simply engage in a capital program of installing a large number of elevators in a short amount of time because there is currently no plan in place to address the global challenges of the elevator portfolio.

The Agreement requires that NYCHA produce a detailed Action Plan within 120 days of the Agreement's effective date and that NYCHA meet various performance-specific deadlines regarding the provision of elevator services to its residents. The Action Plan must identify, for each building that contains an elevator designed for resident use, how NYCHA will respond when all elevators are out of service at that building (a "no-service" condition). The plan must take into account the resident population of each building, any individuals with self-reported mobility impairments, the historical data about prior outages or service disruptions, the availability of personnel to assist residents, the terms of any elevator support contract, and historical response and repair times. In

addition, NYCHA must produce sufficient data identifying all elevator service interruptions in the prior three years and must update that data at least quarterly. Agreement Exhibit B ¶¶ 21-34.

In accordance with the Agreement, NYCHA issued an elevator Action Plan to the Monitor on May 31, 2019. It should be noted that the Monitor Team requested to work with NYCHA's elevator division while the plan was being developed, well before it was due under the Agreement, but that offer was declined. Once the Monitor Team received the plan, we promptly reviewed it and determined that, while the submitted plan is a good starting point with laudable goals, it is not a comprehensive plan that addresses all of the issues outlined in the Agreement. The plan does not fully address the current state of NYCHA's elevator portfolio and does not provide an effective blueprint to bring that portfolio into good working order. For instance, while the plan NYCHA submitted included language about assisting residents to and from their apartments during complete elevator outages, it is not a plan that could be implemented and actually work.

The main deficiency with NYCHA's elevator plan is that it confines its scope to what NYCHA believes it can currently fund, rather than establishing goals to be accomplished based on what will be required to make its elevators safe and reliable. To rework the plan, the Monitor Team has engaged with ESRD through a working group to develop both unconstrained and constrained asset management structured action plans. The unconstrained plan will take into account the entire elevator portfolio from the perspective of unlimited funding, i.e., if NYCHA had unlimited funding what actions would bring the portfolio back to a constant state of good repair. The constrained plan is the plan that will address the most critical and strategic items with the funding that the ESRD group has on a year over year basis. This proactive approach will enable ESRD to justify additional funding and have a plan to execute when and if those further funds become available.

Additionally, while NYCHA did submit data outlining the number and timing of elevator outages/interruptions in the last three years (roughly 128,000 outages in total),

some important information is lacking. Specifically, the historical data does not accurately identify the cause of each outage/interruption. It only uses one of three available codes such that the precise cause of the outage cannot be determined. According to the elevator group, as of May 31, 2019, the exact cause of the outage will now be identified for each Maximo work order ticket so that NYCHA can leverage this information to understand current and future needs when servicing specific elevators. We anticipate that the next quarterly update to the outage data will have this precise information included.

In the next quarter and beyond, the Monitor Team and ESRD, in their joint working group, will continue to develop a comprehensive action plan as described above. The Monitor Team has asked that NYCHA provide a complete asset information summary including the inventory of the elevator stock, age of each asset, most recent condition assessment (done monthly according to NYCHA), and locations and warranties where available. We have also requested that ESRD furnish the past three months of elevator inspection reports with corresponding photographs.

ESRD has indicated that warranties for existing equipment are currently difficult to locate because they have never been stored in Maximo. Warranties are critical to the maintenance and state of good repair to the elevators and a means to ensure that the equipment was installed correctly and functions as per manufacturer specifications. In the event that mechanical, software, or equipment challenges arise during the warranty period, NYCHA would not be responsible for the cost associated with these repairs; rather, the manufacturer or the installing contractor typically must cover those costs. This presents an opportunity for future efficiency and savings, with 295 new elevators planned for installation over the next five years.

The working group also will focus on getting the entire elevator portfolio asset information into Maximo so that a preventive and reactive maintenance program can be established and implemented. A preventive maintenance program is one where the known information about an elevator and its systems can be put into Maximo, the

operations manual can be uploaded into the program for reference, and the manufacturer's suggested preventive maintenance can be scheduled a year in advance for each elevator in the portfolio. An effective reactive maintenance program also requires that all the information about the elevators in the NYCHA portfolio be contained in the Maximo system. Then, when an outage work order ticket is issued, the technicians can consult Maximo and know what parts, tools, and equipment to bring to service the specific elevator that they are going to fix. It can tell them to make sure an electrician is on site or tell them about any special requirements necessary to make the repair. This will save an immense amount of time, effort, and money in servicing the NYCHA elevator portfolio.

We will provide an update on the progress of these measures and the development of our comprehensive Action Plan in the next report.

F. PESTS AND WASTE

The Agreement requires NYCHA to reduce the significant pest population (rats, mice, cockroaches and bedbugs) in and around its development buildings by adopting industry-standard Integrated Pest Management (“IPM”) practices. NYCHA's responsibilities under the Agreement also include addressing the root causes of these pest infestations, such as trash, leaks, and holes in resident unit walls. NYCHA is required to provide targeted infestation relief for all apartments where there are multiple⁵—more than one—verified pest complaints before August 1, 2019. Additionally, NYCHA has the following preventive maintenance requirement to be implemented by August 1, 2019: no less than once every 24 hours, it is to inspect the grounds and common areas of each of its buildings for cleaning, maintenance, pests and trash, *and correct such conditions*. Agreement Exhibit B ¶¶ 35-49. Based on information the Monitor Team has gathered so far, particularly interviews with relevant NYCHA staff, it is unlikely that NYCHA will meet these deadlines.

⁵ In consultation with the Monitor, NYCHA agreed to define more than one verified pest complaint as multiple pest types rather than as a repeated pest type. A repeated pest type definition would mean more than one rat verified complaint, more than one bedbug verified complaint and so on. The multiple pest type definition means that there is more than one verified complaint regardless of pest type, so one rat and one bedbug complaint equals more than one verified pest complaint.

The Agreement also mandates that within three years of its effective date, NYCHA shall achieve a significant reduction in its pest population across its portfolio. This is likely to be an arduous task, given the extensive nature of the pest problems that exist across NYCHA's developments, as were graphically described in the federal civil complaint filed attached to this report at Appendix 1.

In an effort to establish reasonable protocols by which IPM professionals can develop and provide reliable estimates of the pest population in each development as is required by the Agreement, the Monitor has engaged a pest expert to advise us on the creation of a pest infestation index to help us and NYCHA collect, track, and measure NYCHA's progress in meeting its pest population Agreement obligations.

During this first reporting period, the Monitor Team group focusing on waste management and pest reduction began its work by reviewing numerous documents, including NYCHA's 2.0 Waste Management Plan ("NYCHA 2.0"), a waste management study done for NYCHA by Public Works Partners, letters from NYCHA residents, and pest extermination studies. We also visited over a dozen NYCHA developments, met with TAPs, development property managers, superintendents, supervisors of grounds, maintenance staff, and caretakers. Additionally, we met with the NYCHA Chairperson's Deputy Chief of Staff, Executive Vice President for Operations, Vice President for Energy and Sustainability, Senior Vice President for Operations Support Services, Vice President for Healthy Homes, Director for Prevention and Intervention Strategies, Director for Maintenance, Repair & Skilled Trades, and Resident Buildings Superintendent, among many others. Finally, we interviewed StopPests in Housing at the Cornell University Northeastern IPM Center and the leadership from the non-profit Public Work Partners.

Pest Reduction

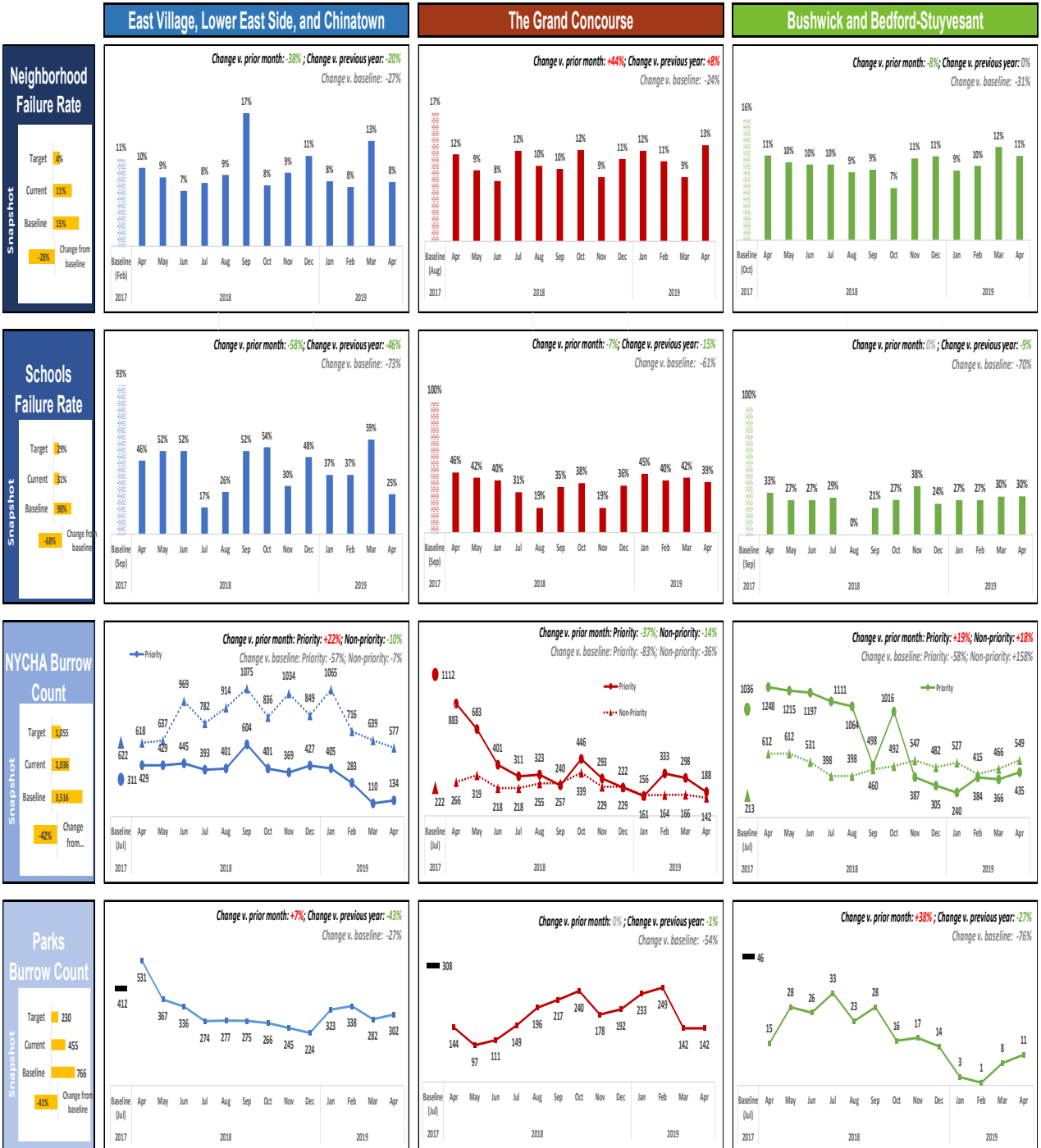
In the summer of 2017, New York City Mayor de Blasio introduced a \$32 million, multi-agency plan to reduce the city's rat population, targeting the Grand Concourse, Chinatown/East Village/Lower East Side and Bushwick/Bedford-Stuyvesant areas of the city. The approach, which uses IPM practices, has so far reportedly proven helpful in reducing rat reproduction and populations. A graphic showing the City's progress in April 2019 can be found on the next page of this report.

In April 2018, the Mayor's rat reduction program was extended to target ten NYCHA developments where approximately 23,000 people live: Bushwick, Webster, Marcy, Butler, Morris I, Morris II, Riis I, Riis II, Morrissania, and Hylan. Later, 49 additional developments were covered as part of the program, and in the near future, the program will be further extended to NYCHA developments in northern Manhattan. Our concern, however, is that for NYCHA the Mayor's rat reduction program is being too narrowly implemented and does not include all developments where rat infestations are a serious problem. In fact, certain NYCHA developments visited by the Monitor Team that are not located within one of the Mayor's rat reduction zones have horrific pest infestation conditions (including rats). It is inadequate for NYCHA to largely bootstrap its rat reduction efforts to the Mayor's rat reduction program. NYCHA's rat reduction efforts must be more expansive across its entire portfolio in order to eradicate this problem.

NEIGHBORHOOD RAT REDUCTION Monthly Dashboard

April 2019

Current as of May 7, 2019



Of the many developments the Monitor Team visited, the rat infestation problem at the Washington Houses underscores the magnitude of NYCHA's pest challenges across its portfolio. At the Washington Houses, the Monitor Team observed rat burrows across the development, including along building foundations and inside entrance doors.

In a letter to NYCHA signed by over 500 of its 4,000 residents, the Washington Houses Tenant Association's Executive Board described the rat infestation problem in graphic detail and its impact on its residents, calling residents "hostages in our own home at night." As the letter describes, residents see rats "coming out of the elevators and stairways," and internal "compactors are closed and have been out of service ... [in numerous buildings] due to workers refusing to enter compactor rooms for fear of being attacked" by rats. Despite this, residents have continued to place their "garbage inside (the trash chutes), to the point of garbage being filled all the way to the 14th floor of buildings. The rats then climb the garbage in the compactors to reach upper floors and enter apartments." A copy of the Board's letter, redacted to remove personal information, is attached at Appendix 6.

Shockingly, this letter was not initially responded to by NYCHA.⁶ Because it was not located within one of the Mayor's rat reduction zones, the rat infestation problem at this development largely went unaddressed until the Monitor Team directly questioned senior NYCHA officials about the problem and referenced the residents' letter. We were then informed that NYCHA's pest reduction staff responded. We plan to continue to monitor NYCHA's rat remediation efforts at Washington Houses. The problem at Washington Houses is, unfortunately, not an isolated circumstance at NYCHA. NYCHA must establish a much more aggressive and comprehensive pest reduction plan to eliminate pest infestations across all the developments if NYCHA is to be compliant with the many deadlines and other pest-related requirements listed in the Agreement that must be met within the next three years.

⁶ The Monitor team immediately brought the Washington Houses' rat problem to the attention of NYCHA senior leaders and within 24 hours a team of pest reduction staff were on site.

NYCHA currently employs only 108 pest exterminators (many of whom are not currently IPM-trained), and it is currently slated to hire only twelve more with another dozen vacancies on the borough level. Given the total number of NYCHA apartments, each of those exterminators will have to provide coverage for approximately 1,400 apartments. Given that the average apartment extermination treatment takes 90 to 100 minutes to administer, this staffing level is woefully inadequate. In fact, NYCHA recently advised the Monitor that based on its own calculations, in order for NYCHA to catch-up on its backlog of units needing pest infestation treatment across all the developments for apartments with more than one verified pest complaint, it would need almost *one thousand* exterminators.⁷

NYCHA's efforts are further complicated by the fact that it currently does not employ a single IPM-trained pest inspector or what New York City's Department of Health and Mental Hygiene ("DOHMH") refers to as a Public Health Sanitarian. As explained to the Monitor Team and NYCHA in an email from DOHMH's Director of Neighborhood Interventions, NYCHA's lack of IPM-trained pest inspectors poses a fundamental practice deficiency. DOHMH IPM-trained pest inspectors operate independently of the staff charged with responding to the residents' pest complaints (the NYCHA exterminators). According to this DOHMH Director, NYCHA "exterminators themselves are often not great at collecting independent inspection findings for many reasons, most importantly they have good reason to inflate the 'pre' count and minimize the 'post' count in order to show

⁷ At the Monitor's request, NYCHA ran an unconstrained resource needs analysis for its targeted relief universe to determine whether it could comply with its obligation under this section before August 1, 2019. NYCHA determined that out of its approximately 170,740 total units, it has an existing backlog of 71,394 impacted units (about 42% of its total units) in need of targeted relief as either a primary impacted unit or adjacent impacted unit from one year before the Effective Date of the Agreement, January 31, 2018 through June 17, 2019. During that same timeframe, out of the backlog of 71,394 units with more than one pest infestation complaint verified by NYCHA staff, 18,225 or 11% of its total units are primary impacted units and 53,169 or 31% of its total units are adjacent impacted units, all of which are spread across 7,774 floors which also require targeted relief as common areas. These statistics do not include the backlog for primary impacted units with only one pest infestation complaint verified by NYCHA staff and its adjacent units and common areas or new pest infestation complaints verified by NYCHA staff after June 17, 2019. In light of this backlog and its existing headcount, NYCHA is need of 961 IPM-trained exterminators or at a minimum 853 additional exterminators to immediately meet this second 30-day targeted relief obligation under the Agreement.

their own success.” This DOMHM Director has also “noticed that exterminators will often record only the signs of pest activity that they are trained to treat and not all signs that an inspector may observe. Having independent inspectors with no incentives or disincentives is important if you want accurate estimates of activity over time. It is also important to randomize the times and dates that inspections occur in order to get an accurate representation of conditions.” It is therefore important that NYCHA establish independent IPM-pest inspectors to conduct randomized inspections for it to be able to accurately report the extent of its pest population infestations and to effectively remediate them to meet its Agreement obligations.

NYCHA’s pest population reduction program is not effectively structured to accomplish the goals under the Agreement. This plan is now managed by a Director in NYCHA’s Department of Prevention and Intervention Strategies (“PAIS”). The borough offices, which are vested with separate and distinct authority from PAIS, have 100 of the current 108 exterminators under their control. The PAIS Director responsible for the design and implementation of NYCHA’s pest population reduction plan only has eight exterminators under her control. There are 10 exterminator supervisors who do not perform field work.

Additionally, the PAIS Director requires collaboration from other NYCHA departments, specifically the Operations and Capital Projects divisions, to achieve PAIS’s objectives and to meet its Agreement obligations. In order for NYCHA’s pest population reduction plan to work, all these organizational silos must collaborate and work together towards a common mission, with one person from the overall group delegated the authority and accountability for the program’s effective design and implementation.

Significantly, NYCHA’s pest population reduction obligations under the Agreement go beyond mere extermination. The Agreement also requires that NYCHA address the infrastructure conditions in its buildings that cause the pest problems, such as “unaddressed leaks...holes in walls.” Therefore, pest reduction efforts must include the participation of the Operations division and their cadre of skilled tradesmen: plasterers,

painters, plumbers and electricians, among others, to fix the conditions in apartments, common areas and on the development grounds that contribute to pest infestations.⁸

The Agreement also mandates that NYCHA establish effective waste management practices so that garbage is properly contained and removed from its buildings and surrounding areas, as a further step towards pest population reduction. Currently the PAIS Director, who is the person responsible for designing and developing NYCHA's pest extermination plan, does not have the wider authority to successfully achieve these obligations under the Agreement.

As with other infrastructure areas in NYCHA such as elevators, heat/hot water and lead paint issues, the Monitor Team is working with NYCHA to form a comprehensive working group which includes the PAIS Director, managers from the Operations and Capital Projects divisions, and the leader of NYCHA's Waste Management Plan development, among others. This pest population reduction working group, using the Agreement as its guide with clearly established goals and standards, has already begun gathering more accurate and comprehensive pest data across NYCHA's entire portfolio, and from there will develop constrained and unconstrained plans for pest population reduction. Included will be a pest population preventive maintenance plan, which will address the proactive treatment of spaces including, floors, basements, grounds and individual units by development staff and to the extent appropriate, residents. This pest population preventive maintenance plan should include a targeted training program for development staff and residents.

In connection with the plans developed by the working group, the Monitor is recommending a number of pest-focused initiatives in collaboration with NYCHA and various New York City agencies such as DOHMH. Immediately after the pest infestation

⁸ Existing skilled trades likewise have a significant backlog and are also at full capacity. Provided its backlog for targeted relief, NYCHA is need of an additional 364 painters, 207 carpenters, 187 plasterers, 187 plasterer helpers, 75 plumbers, 75 plumber helpers, 8 bricklayers, 8 mason's helpers, 639 maintenance staff, and 7 caretakers to immediately meet this second 30-day targeted relief obligation under the Agreement.

index protocol is established, the Monitor plans to oversee a sample assessment using visual inspections at a dozen or more developments to confirm that the NYCHA complaint data available to us is a fair representation of NYCHA's current pest population. The Monitor is also currently working with NYCHA's Vice President, Operations, to establish a skilled trades task force to completely revamp how that service is provided to NYCHA developments. Additionally, the Monitor is working with NYCHA to create an executable waste management plan for all 325 NYCHA developments.

Waste Management

Though the Agreement requires NYCHA to establish an effective waste management plan, NYCHA had begun this process two years ago when it tasked its Vice President for Energy and Sustainability to develop a strategy known as the NYCHA 2.0 Plan. The Plan contains the following goals: (1) NYCHA developments should be free of visible garbage, litter and pests; (2) residents should have convenient and clearly marked locations to deposit garbage of all types, including recyclables and food waste; and (3) waste management infrastructure should be well-maintained, adequate for the volume of waste, and state-of-the-art wherever possible.

This plan has four additional goals, each with initiatives to accomplish them:

- Goal One is for NYCHA to set positive norms and expectations through the "Campaign for a Clean NYCHA" and by supporting robust outreach and education by resident-led and nonprofit groups;
- Goal Two asks that NYCHA make proper waste disposal convenient by improving trash chutes to encourage proper use, evaluating the adoption of new collection technology, providing more trash cans at developments, improving drop-off sites, redesigning waste processing areas; and improving bulk waste collection;
- Goal Three calls for NYCHA to reduce landfill-bound trash by improving and expanding recycling;
- Goal Four calls on NYCHA to eliminate food in garbage that attracts rodents and pests, by removing food waste from landfill-bound garbage and improving containerization of landfill-bound garbage.

Given the extensive size of NYCHA's portfolio, the implementation of this plan is daunting. Recognizing this, NYCHA's strategy is to effectuate the overall plan by focusing on small numbers of individual developments at a time, a process it says will take seven years to complete across all of NYCHA.⁹ Yet under the Agreement, NYCHA must meet specific performance obligations, most of which are covered in the NYCHA 2.0, all in a time period of no more than five years. Additionally, NYCHA's current plan is not an Action Plan, but largely a listing of goals and aspirations. What is needed is a plan that includes a comprehensive structure to fulfill these goals, including staffing and budget needs, and the means by which NYCHA will coordinate all the relevant divisions, particularly Operations and Capital Projects, as will be needed for implementation and accomplishment of NYCHA 2.0.

As with NYCHA's pest reduction effort, the Monitor Team is in the process of establishing a working group for the implementation of the NYCHA 2.0 plan and the requirements of the Agreement. As with the other working groups, the waste management working group contains senior managers from the following NYCHA sections: Sustainability, Operations, Capital Projects, Finance, General Services, Supply Management, Healthy Homes, Resident Engagement, MRST, Design, and others. Going forward, the Monitor Team will encourage the working group to establish waste management plans for *each* NYCHA development and will recommend that there be a working subgroup to catalogue all inventory of functional (e.g., compactors, containers, garbage bins, etc.) and technological waste management resources. This waste management resource catalogue should be shared with all development staff managers, superintendents and other relevant parties in an effort to support each NYCHA development to create its own individual waste management plans. The Monitor Team will also work with NYCHA to ensure that there is sufficient caretaker staff to execute the plans at each development.

In parallel, the Monitor is suggesting that the working group create a working subgroup to engage a consultant to survey residents to gauge what they perceive as each

⁹ NYCHA 2.0 Waste Management Plan, page 45.

development's unique waste management needs. Once the subgroups have done their work, it will be the job of the overall working group to review and approve waste management plan proposals for each development to most effectively allocate resources across the NYCHA portfolio.

The NYCHA 2.0 Plan's overall goals are supported by NYCHA's residents, based on the results of a recent study. In January, 2019, NYCHA engaged Public Work Partners "to design and implement an outreach strategy that would gather data on resident practices, challenges, and priorities as it relates to waste management."¹⁰ Ultimately Public Work Partners' survey data and feedback validated and verified much of what NYCHA already knew – that its existing waste management efforts were primarily plagued by: (1) inadequate waste infrastructure, (2) inconvenient waste locations, and (3) insufficient waste support services. NYCHA has recognized these findings and incorporated them into its NYCHA 2.0 Plan.

Additionally, NYCHA has begun efforts to implement its waste management plan based on Public Work Partner's findings, such as placing larger trash chute hopper doors on the lowest floors of buildings with internal compactors. We visited a number of these buildings and saw that the larger trash chute hopper doors bring immediate improvements with waste management and pest prevention. In fact, the success of this simple modification has been so helpful that the Monitor Team facilitated the installation of two larger hopper doors at the Fredrick Douglass Houses development, which was the development where we received the greatest number of waste management and rodent complaints. The Monitor Team has suggested that NYCHA rapidly expand the process of installing the larger hopper doors across its entire portfolio on the lowest possible floor in all NYCHA buildings with interior compactors. As a further measure, the Monitor Team suggested that NYCHA fully implement the Public Work Partners recommendation that it supply residents with standard kitchen size (13 gallons) trash bags (at no cost), as a means to achieve the greatest benefit from the installation of the larger doors.

¹⁰ Public Work Partners: Trash Talk: Findings from Resident Waste Management Outreach, page 1.

Installing more effective hopper doors is helpful only if the internal compactors to which the chutes lead are in good working order, which is currently often not the case. It is imperative that NYCHA assess the conditions of its entire portfolio of internal compactors. With this data, the waste management working group should establish a plan to prioritize the replacement and repair of internal compactors across the NYCHA portfolio. Also needed is a comprehensive preventive maintenance schedule to ensure that properly functioning compactors remain clean and operational.

The Public Work Partners survey also found that NYCHA residents have serious concerns regarding bulk waste at the developments. This survey noted that at NYCHA developments, “bulk waste contributes to a large proportion of litter and is varied in composition, which includes household furniture, cardboard, and toys.” The survey found that when bulk waste does not fit in trash chutes or bulk disposal locations are inconveniently located, “residents often leave [bulk] waste in front of buildings or in communal” areas. In addition to being unsightly, this practice greatly contributes to the rodent problem. The Monitor Team witnessed the extent of this problem firsthand at the Independence Towers development in Brooklyn. The Independence Towers development has two condemned boilers which have been replaced by mobile boilers. In order for NYCHA to make room for the mobile boilers, it had to move its bulk waste container to an open area on a public sidewalk directly in front of the development and across from a children’s playground. Once this bulk waste container was moved to the open area on a public sidewalk, the bulk waste became scattered all around the container and appears to sit there without regular pick up, as shown in the photo below. This area has become a breeding ground for the development’s rodent problem and creates a health and safety hazard.



The Vice President of Energy and Sustainability is aware of and agrees that NYCHA must establish a better plan to manage bulk waste. The waste management working group will include efforts to develop a plan for more comprehensive bulk waste disposal across all the developments.

A common theme with every development the Monitor Team visited is trash scattered in and around buildings. In addition to unsightliness, the impact of these unwanted practices also creates severe rodent population problems. For example, as mentioned briefly above, the Monitor Team receives multiple weekly complaints about the trash piling up at the Fredrick Douglass development on the street corner of 103rd Street and Amsterdam Avenue. The below photo shows the trash and litter at the Fredrick Douglass Development building located at 868 Amsterdam.



If NYCHA is to achieve success with the Agreement's pest population reduction obligations, there must be improved resident compliance with each development's established trash disposal practices. To this end, the working group should task a working subgroup to solicit feedback from each development regarding trash bins and other containers, along with input about where each should be located within the developments to achieve optimal compliance by residents. One strategy to consider is to use residents' current trash disposal practices in determining where to best place waste infrastructures, such as bins and containers. Additionally, establishing effective engagement with and input from residents at each development is essential for the success of any waste management plan.

Finally, NYCHA must recognize that the success of any waste management plan at a development depends on having sufficient caretaker staff to accomplish it. The Monitor Team has been told by NYCHA executives that approximately 70% of a caretaker's work entails waste management. We have been told by TAPs and other residents that NYCHA does not provide sufficient caretaker staff for the work to be done.¹¹ Making matters worse, at most developments, generally 20% to 30% of the allotted caretaker headcount is unfilled. At a minimum, this results in overflowing trash receptacles and garbage bags piled high in building basements and other locations around developments. When residents see and live with these circumstances on a continual basis, as they do now, resignation often extinguishes the desire to embrace initiatives to improve living conditions. NYCHA's Operations division should make sure that developments are sufficiently staffed with a properly trained caretaker staff to maintain trash-free living conditions.

VI. RESIDENT AND COMMUNITY ENGAGEMENT

To address resident's concerns regarding the quality of services they are entitled to receive from NYCHA, the Monitor Team has made engagement with NYCHA residents and the various related resident organizations of paramount importance. NYCHA residents are entitled to decent, safe, and sanitary housing, which has been lacking for too long. Robust, meaningful, and inclusive communication with residents and other stakeholders is essential for the timely identification of any living condition deficiencies and for assessing NYCHA's compliance with the Agreement.

¹¹ NYCHA is currently in the process of rolling out an Alternative Work Schedule ("AWS") for caretakers in order to provide caretaker staffing from 6am to 7pm seven days a week. The AWS rollout across the entire NYCHA development portfolio is tentatively scheduled to be completed in the first quarter of 2020. While this would provide daily coverage at the developments, the New York City Department of Sanitation ("DSNY") generally does not collect refuse seven days a week. For example, DSNY typically only provides a maximum of three days of service to residential buildings that do not have exterior compactors. NYCHA will have to work with DSNY in order to comply with the 24-hour trash collection requirement of the Agreement.

The Agreement itself underscores the importance of Monitor engagement with all NYCHA stakeholders, including residents and resident groups, regarding matters related to the Agreement. As part of that effort, the Monitor must establish procedures to communicate with residents, resident groups, and other stakeholders, and to solicit comments from them. The Monitor is also required to establish and convene a Community Advisory Committee (“CAC”) on at least a quarterly basis to solicit input about the achievement of the Agreement’s purpose. The CAC is to consist of NYCHA’s Resident Advisory Board; resident, community, and employee representatives; senior NYCHA managers; and other relevant stakeholders. Agreement ¶¶ 29-31.

A. Engagement with NYCHA Stakeholders

The Monitor Team’s first actions were outreach to residents and resident organizations, including to all Tenant Association Presidents (commonly referred to as TAPs), whose names were supplied to us by NYCHA.¹² The Monitor Team scheduled and conducted a series of nine conference calls with 104 presidents, and spoke separately to 77 others who could not participate in the scheduled calls. Beyond that, our efforts to reach additional TAPs were unsuccessful. It became clear to the Monitor Team during this outreach that NYCHA does not have complete, and in some cases accurate, information regarding the current list of TAPs and their contact information. The Monitor Team will be working with NYCHA’s Office of Resident Engagement (“ORE”) to ensure that the list of all active Resident Associations and their leadership is up to date.

To date, Monitor Team members have visited 115 developments across all five boroughs through June 30, 2019. During these visits, we interviewed TAPs, residents, and various NYCHA staff members including property managers, housing assistants, maintenance workers, and caretakers. The Monitor and other members of the Monitor Team also attended and spoke at eight Resident Association meetings, many of which included TAPs and other residents from several nearby developments as well as other

¹² Although most of these resident organizations refer to themselves as “tenant associations,” the terms “resident association” and “resident council” are also commonly used. We use these terms interchangeably throughout this report.

stakeholders. A list of all the developments visited is attached at Appendix 7. These interactions between the Monitor Team and residents have provided important information about resident concerns as well as NYCHA's response to them (or lack thereof), and we will continue these visits throughout the Monitorship. In addition, despite some initial push back from NYCHA executives who cited lack of available space, the Monitor Team plans to establish offices at each borough property management office.

The Monitor Team is also working to identify and communicate with other relevant stakeholders. We have begun planned meetings with community-based organizations, elected officials, clergy leaders, academics, housing advocates, real estate and business leaders, and grassroots organizations to identify the landscape of NYCHA's community stakeholders and provided a broader context for understanding the concerns brought to us by NYCHA residents and staff.

Among other things, we have contacted representatives from United Neighborhood Houses, Community Service Society, Legal Aid Society, Community Voices Heard, New York Housing Conference, Ocean Bay Community Development Corporation, Citizens Housing Planning Council, Housing Conservation Coordinators, Red Hook Initiative, Families United for Racial and Economic Equality ("FUREE"), and the Fifth Avenue Committee, as the beginning of our ongoing process to engage with stakeholders in the community. We are also working to identify a stakeholder who will be representative of a larger NYCHA community on the CAC.

B. Community Advisory Committee

The first CAC meeting took place on May 14, 2019, at the Ingersoll Houses Community Center in downtown Brooklyn. While the Agreement calls for quarterly CAC meetings, the Monitor will convene a meeting every other month, rotating the venue for these meetings between all five boroughs. The first CAC meeting was attended by over 150 residents, including TAPs, members of at least six non-profit and community-based organizations, representatives of city, state and federal elected officials, and a number of

individual community leaders and stakeholders. The second CAC meeting will take place on Tuesday, July 30, 2019 at the Johnson Community Center in East Harlem, Manhattan.

The Monitor's intention for the CAC meetings is that they be public and provide an opportunity for CAC members and other attendees to raise, discuss, and hopefully together begin to resolve critical issues and concerns that will inform and guide the Monitor regarding achieving the Agreement's purpose. It is expected that the CAC members will be an important source of information about the effectiveness of changes and intended improvements at NYCHA. To this end, the Monitor selected CAC members who not only possess significant knowledge of NYCHA based on their various backgrounds, but who have also demonstrated a dedication and interest in working to improve NYCHA's operations and commitment to its residents. It is intended that membership on the CAC not be static, but will rather evolve over time. The Agreement prescribes that the NYCHA stakeholders to be represented on the CAC include: 1) TAPs, 2) NYCHA residents, community and employee representatives, and 3) senior NYCHA managers. Current CAC members include: the Monitor, residents, elected and appointed City officials, senior NYCHA managers from leadership, maintenance and resident engagement, representatives from HUD, the NYPD, the FDNY, the New York City Department for Youth and Community Development ("DYCD"), the New York City Department for the Aging ("DFTA"), and the Teamsters Local 237 president.

At least a month prior to the meeting, the Monitor offered accommodation under the Americans with Disabilities Act and language interpretation by posting the opportunity to request such services prior to the meeting on the website, in emails, and on conference calls. Although we did not receive any requests for accommodation, the Monitor's office secured a Spanish interpreter who performed consecutive interpretation during the meeting.

At the first CAC meeting, the Monitor introduced himself, described his experience working with various types of organizations to make them more effective in delivering on their purposes and commitments, and provided a summary of what was expected of

NYCHA, HUD, the City, and the Monitor Team under the Agreement. The Monitor explained the purpose of and potential for the CAC, and what he hopes to accomplish by gathering NYCHA stakeholders focused on improving services for its residents. The other CAC members then described their backgrounds, the work they had done to improve and serve NYCHA and its residents, and why it was important for them to be on the CAC. The Monitor Team gave a presentation to members and attendees regarding the requirements under the Agreement, including regulations that govern the abatement and remediation of lead-based paint. The Monitor Team also informed the residents that the team would be available immediately after the formal portion of the meeting to hear individual complaints and concerns, particularly regarding lead paint.

The Monitor also addressed questions and comments, most of which were from NYCHA residents. The dominant message from the residents who spoke at the meeting was one of utter frustration and resignation at their largely futile attempts to obtain basic services from NYCHA, including regular heat, hot water, security, and elevator and waste management services, among others. Many of those who spoke were life-long NYCHA residents who have also been members of various resident and community groups over the years. They expressed exasperation that NYCHA largely does not listen, respond to, or include their ideas or concerns in its decision-making process, and is often unresponsive as breakdowns in building infrastructure at the developments continue to erode living conditions. When the meeting concluded, several residents in attendance, as well as CAC members, provided additional detail to the Monitor Team members regarding a number of these issues.

C. Other Communication Channels

As required in the Agreement, the Monitor established procedures for the Monitor to communicate with and solicit from residents and other stakeholders including a public website, a telephone line in six languages, and an email address. These channels of communication went live on March 26, 2019, allowing stakeholders and the public to submit feedback to the Monitor. All TAPs whose information was provided to us by NYCHA, over three dozen community organizations we identified, and city, state and

federal elected officials who represent districts in the five boroughs were notified by phone and/or email when the website, email, and phone number went live. The Monitor also made sure that this contact information is available on NYCHA's internal website so that NYCHA staff also knows how to reach out directly to the Monitor Team.

The information the Monitor Team has received from all these sources has been extensive and useful. The Monitor has been clear that despite the desire to look into and cure individual resident's complaints, the Agreement directs the Monitor to focus on overall systemic failures and pervasive problems. While individual resident circumstances are useful to understanding the larger issues across all the developments, the Monitor Team is careful to maintain its focus on the systemic problems, consistent with the mandates of the Agreement. That said, the Monitor Team makes sure that NYCHA is aware of the resident and other complaints that are communicated to us, and we make efforts to follow-up to ensure that those residents who submitted their complaints and communicated their concerns to us receive a response.

D. Feedback from Residents and Other Stakeholders

Our resident and community engagement efforts thus far have focused us on a variety of issues and concerns expressed by residents, NYCHA staff, community stakeholders including non-profit and community-based organizations, and elected officials. In our assessment of this information collected during the aforementioned meetings, development visits, and through first-hand observations, we have identified the following set of preliminary observations and areas for improvement that represent systemic problems needing systemic solutions.

NYCHA's Office of Resident Engagement ("ORE")

Almost every resident we spoke with is deeply critical of the job NYCHA is doing to engage with, respond to, and address resident concerns and complaints. ORE is the unit within NYCHA most responsible for ensuring that the communication between NYCHA and its residents is effective. There appears to be much confusion, however,

about what information should come through ORE rather than through some other source within NYCHA. We intend to work with NYCHA to clarify this confusion.

Planned Development Work

Both residents and development staff told us they often have little or no information from NYCHA regarding intended maintenance and/or capital improvements that are planned for their development. Many said they often found out that such plans had been scheduled only when workers showed up to start the project. As another example, some property managers said that they sometimes hear about lead-paint testing and/or remediation only after the work has begun or has been completed and that they are generally uninformed about future plans at the developments they manage. Regardless of the borough or the development we visited, it seemed clear that NYCHA does not have an effective process in place to notify residents, as well as property managers and superintendents, of work to be performed in individual units or development-wide.

Individual Unit Work Orders

Residents also noted that they do not receive proper or timely communications regarding the status of their requested repair work for individual units or shared community spaces. Additionally, TAPs and community organization staff we spoke with told us that work orders are often closed by NYCHA even when the work was not performed or completed, without the resident who initiated the work order being informed.

Building-wide Outages

Residents reported they do not get timely communications about building-wide service outages, whether it be heat/hot water, elevators, gas, or electrical power. We found NYCHA does not always have up-to-date contact information for all of its residents to be able to notify them of outages, and notices of such events are not posted inside the developments on a regular basis and at other logical locations. It also appears that NYCHA does not consistently utilize the Resident Associations as an additional means to communicate with the residents in case of emergencies, building-wide outages, or for general communication.

It is worth noting that NYCHA's robocalling system is seriously flawed. NYCHA has admitted that many residents have changed their phone numbers, usually because they have switched from land lines to wireless services, and have not reported these new numbers to NYCHA. It appears that NYCHA does not have a reliable system for obtaining this updated information, so it keeps sending the messages to old numbers.

Community-Based Services

Another area for improvement is better and consistent communication and consultation with residents about which community-based services should be provided at the developments. There is no widely-known or widely-implemented process in place for residents to submit suggestions for community organizations or services that they would like to see in their developments or to submit feedback about whether they are satisfied with the services provided at their developments.

Section 3

We have consistently heard from residents and NYCHA itself that implementation of Section 3 is uneven at best. Section 3 is a HUD mandate that requires employment and other economic opportunities generated by federal assistance to public housing authorities to be directed, whenever possible, to public housing residents and other low-income residents. It appears that NYCHA does not apply Section 3 to all contracts falling within its jurisdiction, nor does NYCHA provide any enforcement of non-compliant contractors whose agreements do fall within Section 3. Full compliance with Section 3 has potential to raise the standard of living for NYCHA residents and open employment and entrepreneurial areas of growth.

Development Property Management Office Hours

A consistent complaint the Monitor Team has heard from residents and resident associations, which was then conveyed to senior NYCHA staff, was the necessity of extending the hours of property management offices at the developments. Historically those offices were only open for daytime eight-hour periods from Monday to Friday. This

meant that, in most circumstances, managerial staff at the developments – superintendents, property managers, RAMs, etc. – were essentially unavailable to directly interact with residents who work daytime, weekday hours. This frustrated residents who were trying to comply with NYCHA submission requirements, such as rent payments, annual recertification forms and other filings, as well as scheduling apartment maintenance and repair appointments. Residents had been requesting for years, without success, that NYCHA offer more reasonable and accessible hours.

On a positive note, NYCHA's General Manager announced that starting on July 3, 2019, property management offices in all the developments are to be open an extra 2½ hours on Wednesdays through August 28, 2019. This is a small step in the right direction. The Monitor recommends that NYCHA build upon this gesture and continue these extended hours and access year-round, and additionally have development offices open and available to the residents at least a few hours each weekend.

Lack of Overall Support for Resident Associations

ORE is tasked with supporting and managing the resident associations, which are critical to the overall organization and operation of each development. Many residents we spoke with believe NYCHA does not do enough to support resident associations. NYCHA's own data indicates that, of the total 316 developments, only 290 of them are represented by any sort of resident association. Of those 290 developments, only 209 of them are represented by a resident association that has an executed TPA agreement with NYCHA, thereby providing them with access to funding. Therefore, there are over 100 developments that either have associations that are not officially recognized and funded by NYCHA, or they have no association at all. This affects tens of thousands of NYCHA residents.

Lack of Supervision of Development and Skilled-trade Staff

The Monitor Team was repeatedly told by residents that development personnel, especially caretakers and other staff, are often not sufficiently trained or supervised

regarding their expected tasks and productivity. This often results in incomplete work, particularly regarding waste management practices around the developments.

Residents advised that unless they make repeated complaints to development management there is little possibility that repair and maintenance work will get done in a timely manner. This is a frustrating and exhausting way to operate for both residents and NYCHA staff. For example, according to many residents, if a repair cannot be completed by skilled trade staff that is dispatched to the site, a work order is often closed without the problem being solved. Most of the time, it is then left up to the resident to cause a new work order to be opened by filing another complaint.

In addition, we have heard numerous complaints about work orders being designated “emergencies” by NYCHA (such as a serious water leak) that were then unaddressed for weeks, or in some cases, not at all. Often, the failure to expeditiously respond to serious maintenance conditions reported to the Property Management Office, Emergency Services, or Borough Office exacerbates the problem to a point that it starts affecting other units and shared spaces and puts residents’ health and safety at risk.

Moreover, because maintenance staff and superintendents often do not regularly check the results of work by the skilled trades staff, there is no way to ensure that the work performed is completed properly. One property manager reported that the staff at his development had insufficient training or skills to assess whether the work was done adequately, leaving them to rely on the skilled trade workers to evaluate their own work.

It should be noted that the absence of regular post-work reviews or sign-offs on projects can be particularly costly when outside vendors and contractors are used. This can result in payment being made by NYCHA for incomplete work, or as in some cases reported to the Monitor Team, work not done at all. The lack of post-work reviews also creates the opportunity for substandard vendors and contractors to continue working for NYCHA despite their poor performance.

Additionally, because skilled trade workers are assigned to and dispatched from borough offices rather than being assigned to individual developments, the time they are able to devote to maintenance and repair work is reduced by the time they are required to devote to travel to and from the borough offices.

Lack of Coordination with City Agencies

NYCHA does not record or track the units in which children under the supervision of the City's Administration for Children's Services ("ACS") are living unless they are on the lease. Moreover, NYCHA has no procedure in place by which priority may be given to correcting conditions of disrepair cited by ACS. In one case made known to the Monitor Team, ACS issued a violation against a foster parent because of disrepair in the NYCHA unit in which the foster child lived. Although the resident/foster parent on multiple occasions asked the NYCHA property manager to remedy the conditions so that ACS would approve of the child remaining in the unit, no repairs were undertaken until the resident was able to facilitate a conference call between the ACS worker and the property manager.

NYCHA, DOB, and the FDNY are required to work together to address gas leaks to ensure that there are no safety concerns before returning gas service to a building. However, the Monitor Team has been advised by residents that there is ineffective communication between NYCHA and city agencies regarding gas leaks and, as a result, residents are often left without gas well beyond the time it takes to repair leaks. As a result, residents are reportedly forced to rely at times on a single hot plate as their only cooking source for months.

NYCHA's Website

NYCHA does not publish on its website a schedule of meetings with residents, resident advisory board meetings, cluster meetings, Citywide Council of Presidents ("CCOP") meetings, or Youth Leadership Council meetings. This reflects a lack of transparency, limits access to information, and depresses resident participation in these meetings. Moreover, information provided on the website is often outdated. For

example, the Monitor Team found outdated information on NYCHA's website with regard to job postings, programs, and training available to residents. Additionally, many of the webpage links did not function properly.

Community Concerns

We are still in the initial stages of identifying and forging relationships with community stakeholders. However, some community-based organizations situated on NYCHA property with which we have communicated already report that they are often left out of important communications between residents and management. For example, they are not always informed in advance by NYCHA management of planned initiatives that will impact residents' lives; as a consequence, they are unprepared to provide any assistance necessitated by the initiative.

Other community groups call for NYCHA to become more integrated with its neighborhoods. Recognizing that public housing in this country historically was designed to separate "the projects" from the surrounding area, these groups advocate for a return to traditional neighborhood designs that would broaden NYCHA's identity and strengthen its base. Other groups have contended that NYCHA would do well to align more closely with other agencies within city government and to see itself as part of the City's "housing ecosystem." We intend to continue to solicit feedback on these and other issues from the larger community throughout the Monitorship.

VI. CONCLUSION

While this report describes the many challenges that we have identified during the first months of the Monitorship, it also provides a progress report and a foundation for the future. We are committed to forging productive relationships with NYCHA residents, management, staff, public officials, and other partners to turn around NYCHA's performance in the near term and to craft a comprehensive plan for lasting success. We are working to ensure a balance between immediate needs and long-term solutions. Our future quarterly reports will continue to describe our work and our progress in achieving the Agreement's goals.

APPENDICES

APPENDIX 1

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:
	:
Plaintiff,	:
	:
v.	:
	:
NEW YORK CITY HOUSING AUTHORITY,	:
	:
Defendant.	:
	:
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COMPLAINT

18 Civ. 5213

Plaintiff the United States of America (the "United States"), by its attorney, Geoffrey S. Berman, United States Attorney for the Southern District of New York, alleges as follows:

INTRODUCTION

1. The New York City Housing Authority (“NYCHA”) violates basic health and safety regulations of the U.S. Department of Housing and Urban Development (“HUD”). These regulations require NYCHA to protect children from the lead paint that is present within apartments in roughly thirty percent of NYCHA developments and, more generally, to provide residents decent, safe, and sanitary housing. NYCHA has repeatedly made false statements to HUD and the public regarding these issues, and has deceived HUD inspectors.

2. The people who suffer as a result of NYCHA’s misconduct are its residents, including lead-poisoned children; elderly residents without heat in winter; asthma sufferers whose condition is worsened by moldy and pest-infested apartments; and disabled residents without functioning elevators.

3. Lead is toxic, and there is no safe level of exposure; in children, lead can have devastating effects. The most common cause of lead poisoning in children is exposure to deteriorated lead paint. NYCHA knows that there is lead paint within apartment units in roughly thirty percent of its developments, but has failed—and continues to fail—to protect its residents from that paint when it peels and crumbles. NYCHA has for years failed to follow key HUD lead paint safety regulations including, among other things, by failing to find and remediate peeling lead paint in its developments and failing to ensure that NYCHA’s workers use lead-safe work practices to avoid disturbing lead paint that might injure residents. Since at least 2011, NYCHA senior managers have known that NYCHA was violating HUD lead paint requirements. Beyond HUD’s requirements, NYCHA has also violated lead paint safety regulations promulgated by the U.S. Environmental Protection Agency (“EPA”).

4. Children have been harmed as a result of NYCHA’s failures. Between 2010 and 2016 at least 19 lead-poisoned children were found to have been exposed to deteriorated lead

paint in their NYCHA apartments. These 19 children are at risk of lifelong neurological problems. But the 19 cases understate the true extent of lead poisoning likely to have been caused by crumbling lead paint at NYCHA. Many hundreds of additional children living at NYCHA have been reported to the New York City Department of Health and Mental Hygiene (“NYC DOH”) as having tested at or above the Centers for Disease Control’s “reference level”—the level at which public health actions should be initiated. But NYC DOH is only able to investigate a fraction of the cases reported to it to determine whether the children’s apartments contain peeling lead paint. Moreover, NYC DOH’s information is incomplete because it is based solely on reports from medical professionals who have tested children for lead, and does not include the many children living at NYCHA who have not been tested but nonetheless may have lead poisoning. There is every reason to believe the true number of children with lead poisoning is materially higher.

5. Beyond lead paint, HUD regulations also require NYCHA to provide “decent, safe, and sanitary” housing. This “decent, safe, and sanitary” regulation requires not only that NYCHA comply with lead paint safety rules but also that it provide an environment free of mold and pest infestations and with adequate heat and functional elevators. Every year, NYCHA certifies that it is in fact complying with HUD’s regulations, and HUD has paid NYCHA billions of dollars to operate in compliance with them.

6. To enable HUD to determine whether public housing meets this basic standard, HUD created an inspection regime—the Public Housing Assessment System—to allow HUD to determine whether a housing agency is providing decent, safe, and sanitary housing. NYCHA has undermined HUD’s inspections by disguising the true condition of its properties. This deception included turning off water to developments to prevent HUD inspectors from observing leaks;

posting “danger” signs to keep inspectors away from troubled areas; and temporarily hiding improperly stored hazardous materials. NYCHA management even included a document with suggestions for deceiving inspectors in NYCHA’s official training materials. This cover-up “how-to” guide was only removed in Summer 2017, after this Office called its existence to the attention of NYCHA’s outside lawyers.

7. NYCHA’s conduct undermined HUD’s inspection regime and HUD’s ability to use that regime to determine whether NYCHA complies with the “decent, safe, and sanitary” requirement. In fact, living conditions at NYCHA are far from “decent, safe, and sanitary.” Mold grows unchecked at many NYCHA developments, often on a large scale. Across the city, residents are provided inadequate heat in winter, leading to frigid apartment temperatures. Pests and vermin infestations are common, and as senior New York City officials have acknowledged, NYCHA “has no idea how to handle rats.” Elevators often fail, leaving elderly or disabled residents trapped in their apartments or sleeping in building lobbies because they cannot return to their homes. Leaks, peeling paint, and other deterioration are commonplace, but go unaddressed.

8. NYCHA is well aware that disclosing its failure to protect residents from lead paint and its failure to provide decent, safe and sanitary housing would lead to unwanted regulatory scrutiny—including potential limitations on future HUD funding. To avoid this, NYCHA hid conditions from inspectors and repeatedly made false statements to HUD and the public to cover up what can be covered up and minimize what cannot. NYCHA’s false statements have occurred both in formal submissions to HUD and in letters, emails, and press releases directed at HUD and the public.

9. Numerous false statements are detailed in this complaint. But some important examples are the following:

- Every year from 2011 until well after this Office’s investigation began, NYCHA falsely certified to HUD that NYCHA will comply with HUD’s lead paint safety regulations and also complies with other applicable regulations, including those requiring “decent, safe, and sanitary” housing. NYCHA made these false certifications as part of its applications to obtain billions of dollars in funding from HUD. But during this entire period, NYCHA was substantially out of compliance with these important regulations.
- In 2015 and 2016, NYCHA made false statements to HUD and the public regarding its lead paint compliance. Press reports in 2015 told the story of a child with dangerously high levels of lead in her blood, and articles in 2016 reported on this Office’s investigation. To deflect the resulting scrutiny, NYCHA falsely told HUD and the public that NYCHA “complies with Federal, State, and City regulations concerning lead.” But during this entire period, NYCHA was substantially out of compliance with important lead paint regulations.
- In 2012 and 2013, NYCHA made false statements to HUD and the public about its maintenance work order backlog. To fend off concerns by HUD, the media, and local politicians that NYCHA’s large backlog of maintenance work was threatening living conditions at NYCHA, NYCHA began reporting reductions in its backlog, falsely claiming that the reductions resulted from “improved efficiency.” But in fact much of this reduction resulted not from improved efficiency but from NYCHA’s manipulation of the work order process so that it no longer reflected the work that NYCHA knew needed to be done.

When these false statements were made, senior NYCHA officials knew the true facts—directly contrary to the false statements.

10. These examples illustrate the culture at NYCHA. NYCHA’s response to external inquiries is frequently to cover up or minimize problems that it knows to exist; and executives speaking for the agency (at best) fail to conduct basic diligence before providing HUD and the public false assurances of compliance. The problems at NYCHA reflect management dysfunction and organizational failure, including a culture where spin is often rewarded and accountability often does not exist. As NYCHA’s former Chair and CEO (the “Chair”) put it when confronted with an instance of NYCHA’s maintenance failures, “This is more than there isn’t any money. . . .”

11. To ensure NYCHA's compliance with these critical regulations, to prevent further deceptive practices and to mitigate the ongoing effects of NYCHA's past misconduct, the United States brings this action for injunctive relief and appointment of a monitor, pursuant to Section 6(j)(3) of the U.S. Housing Act of 1937 ("U.S. Housing Act"), 42 U.S.C. §§ 1437d(j)(3), and the federal Anti-Fraud Injunction Act, 18 U.S.C. § 1345, and for equitable relief pursuant to the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2616(a)(1).

JURISDICTION AND VENUE

12. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, 15 U.S.C. § 2616, and 42 U.S.C. § 1437d(j)(3).

13. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) and (2), because the defendant resides in this district and because a substantial part of the events giving rise to the claims in this action occurred in this district.

PARTIES

14. Plaintiff is the United States of America.

15. Defendant NYCHA is a municipal housing agency created under Section 401 of New York State's Public Housing Law. NYCHA is run by a chairperson and six other members of a board, all appointed by the Mayor of the City of New York.

BACKGROUND

A. Public Housing

16. Since 1937, the United States has provided funding to assist states and localities in making decent, safe, and sanitary public housing available for low-income families. *See* U.S. Housing Act, Pub. Law 75-412, § 1.

17. Today, approximately 1.2 million families live in public housing managed by roughly 2,900 housing agencies nationwide. HUD will provide approximately \$7.3 billion to fund public housing across the country during Fiscal Year 2018.

B. The New York City Housing Authority

18. NYCHA is by far the largest public housing agency in the United States, larger than the next eleven public housing agencies combined. NYCHA operates 326 developments, consisting of 2,462 residential buildings with approximately 175,000 apartments, located throughout New York City. NYCHA's operating budget for public housing is about \$2.3 billion, roughly \$900 million of which are public housing funds provided by HUD. HUD also provides NYCHA more than \$300 million per year in capital funding.

19. NYCHA public housing is home to nearly 400,000 low- and moderate-income residents.

20. Approximately 27% of NYCHA's residents are children. Nearly 20% of residents are age 62 or older, and more than 37,000 NYCHA residents over 62 live alone.

C. Senior NYCHA Operations Management

21. NYCHA's Operations Department ("Operations") is in charge of building maintenance and repair at NYCHA developments and therefore has a key role in ensuring NYCHA's compliance with lead paint safety regulations and the "decent, safe, and sanitary" requirement.

22. The head of Operations from 2010 to early 2014 was an Executive Vice President for Operations, at times called a "Deputy General Manager" (the "EVP for Operations"). The EVP for Operations reported to NYCHA's then-General Manager. Between early 2014 and 2018, NYCHA did not have an EVP for Operations.

23. Two principal operations executives reported to the EVP for Operations when that position was filled. These individuals, originally serving as Vice-Presidents for Operations and subsequently given the titles Senior Vice-President for Operations (“SVP for Operations”) and Senior Vice-President for Support Services (“SVP for Support Services”), were effectively in charge of most of the Operations Department from the departure of the EVP for Operations in 2014 until late 2017.¹

24. In recent years, the SVP for Operations was responsible for overseeing the day-to-day operations at many of NYCHA’s developments. The SVP for Support Services was responsible for specialized groups such as the lead detection and abatement unit, heating operations unit, and elevators unit. A third senior operations executive, with various titles including “Senior Vice President for NextGeneration Operations,” joined the senior operations staff in late 2015 and departed voluntarily in mid-2017. She oversaw certain operations at a subset of developments.

25. Operations executives would regularly discuss information on operations matters among themselves, with the General Manager and Chair, and with other NYCHA executives.

26. Among other things, every week, the SVP for Operations would meet with other senior NYCHA Operations executives, including the Borough Directors who supervise the developments, to discuss operations issues, including such matters as PHAS inspections, mold, leaks, and apartment inspections. The SVP for Support Services would attend these meetings when agenda items related to his group.

¹ The same individuals held other titles at NYCHA between 2010 and 2017, although always retaining significant management responsibility over issues relevant to this Complaint. For example, the SVP for Operations previously had titles including “Vice President of Operations for Support Services” and “Vice President for Operations.” The SVP for Support Services previously had titles including “Senior Director of Technical Services.”

27. Additionally, the General Manager would meet twice a week with the SVP for Operations, the SVP for Support Services and other senior executives to discuss operations issues. Until 2014, the SVP for Operations and SVP for Support Services would meet every week with the EVP for Operations to discuss similar issues.

28. The NYCHA Chair also would regularly discuss operations issues with the General Manager, the SVP for Operations, and the SVP for Support Services. The Chair communicated regularly with the General Manager on operations issues, including at a weekly meeting. The Chair also would routinely discuss operations-related problems directly with the SVP for Operations and SVP for Support Services as they arose, including at regularly scheduled meetings with them every other week. The agendas for meetings with the Chair included issues regarding lead-based paint, heating, elevator maintenance, mold remediation, work order reporting, and general development management.

29. Other than the Chair, the General Manager, the EVP for Operations (when the position was filled), the SVP for Operations and the SVP for Support Services, other senior managers have played a significant role in monitoring and addressing living conditions, maintenance work orders, and regulatory compliance at HUD's developments, including the Director of Technical Services ("Director of Technical Services"), who was in charge of many aspects of NYCHA's lead paint program and reported to the SVP for Support Services until November 2017.²

² The same individual held other titles at NYCHA between 2010 and 2017, all relevant to NYCHA's lead paint compliance.

**NYCHA HAS LONG VIOLATED KEY LEAD PAINT SAFETY REGULATIONS
AND MADE FALSE STATEMENTS TO COVER UP ITS NONCOMPLIANCE**

30. Since at least 2010, NYCHA has failed to comply with core lead paint safety regulations. Senior NYCHA officials have known of these violations, yet NYCHA executives have repeatedly, and falsely, reassured HUD and the public of NYCHA's compliance.

A. Lead Poisoning and the Lead Paint Safety Regulations

31. Lead is toxic.

32. Lead poisoning in children has particularly devastating consequences. Studies show that even very low levels of lead exposure can cause irreversible neurological problems, including learning disabilities, reduced attention spans, and behavioral problems. No level of lead exposure is safe. Even for adults, ingestion of small amounts of lead can cause or exacerbate serious health conditions, including cancer, hypertension, and kidney failure.

33. Lead poisoning is entirely preventable. The key is stopping children from coming into contact with lead.

34. The most common source of lead exposure is deteriorating lead paint in old housing.³ Children are easily poisoned when they put peeling lead paint flakes in their mouths or ingest lead paint dust, leading to neurological injuries that cannot be corrected.

35. In 1992, Congress enacted the Residential Lead-Based Paint Hazard Reduction Act to, among other things, "reduce the threat of childhood lead poisoning in housing . . . assisted by the Federal Government." 42 U.S.C. § 4851a(6). Pursuant to this statute, HUD in turn promulgated the "Lead-Safe Housing Rule." 24 C.F.R. part 35, subparts B-R (Lead-Safe Housing

³ The terms "lead paint" and "lead paint hazards" as used in this Complaint shall have the same meaning as the terms "lead-based paint" and "lead-based paint hazards," respectively, as defined in section 35.110 of the Lead Safe Housing Rule, 24 C.F.R. § 35.110.

Rule). The Lead-Safe Housing Rule “establish[es] procedures to eliminate as far as practicable lead-based paint hazards” in federally funded housing, including public housing such as NYCHA. 24 C.F.R. § 35.1100.

36. In 2008, pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2616(a)(1), EPA promulgated the Renovation, Repair, and Painting Rule (“RRP Rule”) to reduce the risk of lead exposure in the course of certain renovations. 40 C.F.R. part 745, subpart E.

37. EPA has also promulgated regulations regarding “Lead-Based Paint Activities” including the abatement of lead paint (the “Abatement Rule”). *See* 40 C.F.R. part 745, subpart L.

38. Additionally, HUD and EPA also promulgated substantively identical versions of a “Lead Disclosure Rule,” which requires landlords like NYCHA to inform most tenants in housing built prior to 1978 of known lead paint and lead paint hazards, and to disclose related reports and information. 24 C.F.R. part 35, subpart A (HUD’s Lead Disclosure Rule); 40 C.F.R. part 745, subpart F (EPA’s Lead Disclosure Rule).

39. As applied to public housing, these rules set forth a comprehensive regime intended to protect public housing residents from lead poisoning.

1. The Lead-Safe Housing Rule

40. Under the Lead-Safe Housing Rule, housing agencies like NYCHA must conduct lead paint inspections to determine whether and where lead paint exists in their developments. 24 C.F.R. § 35.1115(a). In certain circumstances, HUD permits housing agencies to use a sampling method that allows them to inspect a subset of apartments and extrapolate the results to the remaining apartments.

41. To the extent that lead paint is found in these inspections, the housing agency must ultimately abate it. 24 C.F.R. § 35.1120(a). Until such time as abatement occurs, the housing

agency must put in place “interim controls” designed to prevent deterioration of lead paint and protect residents from lead poisoning. 24 C.F.R. § 35.1120.

42. The process of ensuring that interim controls are in place includes performance of a “risk assessment” to identify lead paint hazards. 24 C.F.R. § 35.1115(b). A lead paint hazard is “any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.” 24 C.F.R. § 35.110. Thus, for example, peeling lead paint is a lead paint hazard because a child could ingest loose flakes of paint. Similarly, lead paint on a portion of a window that is subject to abrasion or friction from repeated opening and closing is a lead paint hazard because it is likely to produce lead dust that a child may ingest.

43. Once lead paint hazards are identified, “interim controls” must be put in place. Interim controls are measures that temporarily reduce the risk of exposure to lead paint, such as painting over lead paint or rehanging doors to minimize friction. 24 C.F.R. § 35.1330. Interim controls must be put in place by specially trained employees, using safe work practices and taking steps to protect residents. 24 C.F.R. § 35.1330(a)-(e).

44. Because interim controls are inherently temporary and do not eliminate the risk of lead exposure, a housing agency must monitor and maintain those controls and respond to any breakdown. The regulations include four core requirements:

45. *First*, the housing agency must conduct *risk assessment reevaluations* every two years to identify any new or reappearing lead paint hazards in developments with lead paint, unless two consecutive reevaluations separated by at least two years demonstrate the absence of such hazards. 24 C.F.R. § 35.1355(b)(4).

46. *Second*, the housing agency must also conduct a *visual assessment* of every apartment with lead paint *every year*, as well as at unit turnover, to look for visual evidence of “deteriorated paint . . . and the failure of any hazard reduction measures.” 24 C.F.R. § 35.1355(a)(2).

47. *Third*, the housing agency must respond urgently when a child under six living in the building is reported to have a blood lead level that is greater than or equal to the “Environmental Intervention Blood Lead Level” or “EIBLL.” *See* 24 C.F.R. §§ 35.110, 1130 (prior to amendment by 82 Fed. Reg. 4151 (Jan. 13, 2017)).⁴ In response, the housing agency must not only contain hazards in the child’s apartment, but also perform a new risk assessment of the entire building if the building had previously been determined to be free of lead paint or lead paint hazards. 24 C.F.R. § 35.1130(f) (prior to amendment by 82 Fed. Reg. 4151 (Jan. 13, 2017)).⁵ The housing agency is also required to notify HUD that a child living at NYCHA has been found to have an EIBLL. 24 C.F.R. § 35.1130(e)(2).

48. *Fourth*, the housing agency must make sure its workers do not themselves create lead paint hazards when working in apartments, by requiring workers to use safe work practices

⁴ The relevant regulations have recently been modified to lower the blood lead level that requires the actions described in this paragraph, as well as to change certain terminology and modify the actions to be taken. For most of the period relevant to this complaint, the blood lead level requiring NYCHA’s immediate response was defined as 20 micrograms per deciliter, or 15-19 micrograms per deciliter in two tests taken at least three months apart, and was known as the “Environmental Intervention Blood Lead Level.” 24 C.F.R. §§ 35.110, 1130 (prior to amendment by 82 Fed. Reg. 4151 (Jan. 13, 2017)). Beginning in July 2017, a standard of 5 micrograms per deciliter has applied. Under the new standard, the terminology for the urgent action level is “Elevated Blood Lead Level.” 82 Fed. Reg. 4151 (Jan. 13, 2017). For the purpose of consistency in this Complaint, the Government will use only the term EIBLL, but in doing so should be understood to refer to the applicable blood lead level requiring such actions at a given point in time.

⁵ Subsequent to the recent amendments, the regulations instead require a new risk assessment for all apartments containing or expected to contain children under six years old. 24 C.F.R. § 35.1130(f)(1).

when performing any maintenance or renovation work that may disturb lead paint beyond a two square foot *de minimis* level. 24 C.F.R. §§ 35.1345, 35.1350, 35.1355(a)(4). These lead-safe work practices requirements include warning residents about work to be performed and ensuring that they are not present in the worksite; preparing the worksite to prevent the release of lead dust and contain lead paint dust and other debris; and using safe paint removal and worksite cleaning methods. *Id.* §§ 35.1345, 35.1350. Employees performing this work must be specifically trained in the use of lead-safe work practices.

2. The RRP Rule

49. EPA's RRP Rule is a second regulation requiring that NYCHA employ lead-safe work practices when conducting work that disturbs lead paint. The RRP Rule governs residential "renovations," defined broadly to mean "modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces," provided that (i) the work disturbs more than six square feet per room of interior painted surfaces, more than twenty square feet of exterior painted surfaces, or (regardless of size) involves performing window replacements or demolition of painted surface areas, 40 C.F.R. § 745.83; (ii) the work is "for compensation," 40 C.F.R. §§ 745.80; and (iii) the building is "target housing," which generally means housing built prior to 1978 where the surface in question has not been tested and found lead-based paint free, 15 U.S.C. § 2681(17); 40 C.F.R. § 745.82. Work by NYCHA employees is "for compensation" in that NYCHA charges rent to residents and pays wages to its employees.

50. The substantive requirements of the RRP Rule are similar to the safe work practices elements of HUD's Lead-Safe Housing Rule. As an entity performing "renovations," NYCHA must, among other things, have (i) have at least one trained "Certified Renovator" performing or directing the work, 40 C.F.R. §§ 745.81(a)(3), 745.89(d)(2), & 745.90(a); (ii) ensure that other workers are trained in lead-safe work practices, 40 C.F.R. §§ 745.81(a)(3) &

745.89(d)(1); (iii) follow safe work-practice requirements before, during, after the renovation, 40 C.F.R. §§ 745.85, 745.89(d)(3); (iv) provide notice to individuals in the vicinity of the work area, 40 C.F.R. §§ 745.84(a) 745.85(a)(1), 745.89(d)(3), 745.89(d)(4); and (v) document compliance with the safe work practice requirements, 40 C.F.R. §§ 745.86(b)(6), 745.89(d)(5).

3. EPA's Abatement Rule

51. The Abatement Rule requires that anyone engaged in the abatement of lead paint is appropriately trained by an EPA accredited program and certified in carrying out the specific abatement activities. 40 C.F.R. part 745, subpart L. The Abatement Rule also establishes work practice standards for abatement activities. *Id.* EPA's abatement work practice standards require, among other things, that the entity performing lead abatement (i) notify EPA before any abatement activities are conducted; (ii) develop an occupant protection describing all measures and management procedures to be taken to protect building occupants from exposure to any lead-based paint hazards; and (iii) follow post-abatement clearance procedures, including random sampling of other residential units in a multi-family dwelling and the preparation of a final abatement report.. *See* 40 C.F.R. §§ 745.227(e)(1), (5)(i), (8), (9), (10). The Abatement Rule further identifies practices and methodologies appropriate for use in the course of abatement, which provide instructions for notifying and warning residents, containing lead dust and debris, and cleaning the site after abatement. *See* 40 C.F.R. § 745.227(a)(3) (incorporating, among other standards, those of the U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Ch. 12, *available at* https://www.hud.gov/sites/documents/ch12_abatement_121212.pdf).

4. The Lead Disclosure Rule

52. The Lead Disclosure Rule requires landlords—including public housing agencies—to provide tenants information about the presence of lead paint or lead paint hazards in

their apartments when they sign a new (or, in some cases, renewal) lease in most housing built prior to 1978. 24 C.F.R. part 35, subpart A; 40 C.F.R. part 745, subpart F. The information that must be provided includes “any . . . information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.” 24 C.F.R. § 35.88(a)(2); 40 C.F.R. § 745.107(a)(2). It also requires landlords to provide tenants all records or reports regarding lead paint, including building-wide evaluations. 24 C.F.R. § 35.88(a)(4); 40 C.F.R. § 745.107(a).

B. For Years, NYCHA Has Failed to Comply With Key Lead Paint Safety Regulations

53. NYCHA has repeatedly violated these key lead paint safety regulations.

54. Although NYCHA has said publicly that lead paint was “not widely applied in NYCHA” or that “the vast majority of NYCHA developments do not have lead paint,” this is simply untrue. NYCHA’s own documents show that, in fact, more than half of NYCHA’s developments have lead paint somewhere, and at least 92 developments have lead paint in apartment units. NYCHA has found lead paint on walls, floors, ceilings, windows, doors, radiators, pipes, and other locations within apartments.

55. In the early 2000s, NYCHA conducted lead paint inspections throughout the many developments built before lead paint was banned in 1978. For each such development, NYCHA selected a random sample of apartment units to inspect and applied those results to other apartments in the development. Based on this sampling method, NYCHA claimed that approximately 76,000 apartments in certain developments contained lead-based paint, and that others were lead-based paint free. NYCHA further claims to have reduced the number of apartments containing lead paint from 76,000 to approximately 48,000 through inspections and abatements.

56. However, there is ample reason to question NYCHA's determinations as to the number of units with lead paint. Eight of the 19 children found by NYC DOH inspectors to have been exposed to lead paint hazards in NYCHA apartments between 2010 and 2016 lived in developments NYCHA had deemed to be lead free. More recently, New York State health inspectors have found lead paint in at least three other developments NYCHA has deemed to be lead free. And New York City's Department of Housing Preservation and Development has called into question NYCHA's claim that it confirmed the absence of lead paint in at least 4,000 NYCHA apartments.

57. Even accepting NYCHA's numbers means that lead paint has been determined to exist, today, in approximately 51,000 apartments in at least 1,200 buildings in at least 92 NYCHA developments.⁶ Approximately 173,000 residents—including approximately 11,500 children under six years old—live in these developments.

58. Peeling paint is pervasive in NYCHA developments. NYCHA's data shows that in 2016 alone, residents logged more than 38,000 complaints related to paint and plaster issues at developments containing lead paint.

59. In light of these facts, one would expect a heightened attention to lead paint safety at NYCHA. But, to the contrary, NYCHA broadly fails to follow lead paint safety regulations.

60. *Risk Assessment Reevaluations:* Since at least 2010, NYCHA has violated HUD's requirement that it perform periodic risk assessment reevaluations of apartment units and common areas in developments containing lead paint. 24 C.F.R. § 35.1355(b)(4). Under this requirement, NYCHA must have licensed or certified risk assessors inspect developments for lead paint hazards every two years and propose methods of containing or abating those hazards. *Id.*

⁶ The developments are listed in the attached Exhibit A.

The two-year cycle continues until a particular development is determined to be lead-based paint free or has two reevaluations in a row showing no lead paint hazards. As a result of this two-year cycle, from 2010 to 2017, NYCHA would be expected to have conducted at least four risk assessment reevaluations in each of the at least 92 developments that NYCHA concedes contain lead paint in apartments, for a total of at least 368 risk assessment reevaluations. But NYCHA conducted less than 25% of the required reevaluations in those eight years. At 50 developments known to contain lead paint in apartment units, NYCHA conducted *zero* risk assessment reevaluations from 2010 to 2017.

61. NYCHA's failure to conduct regular risk assessment reevaluations undermines the entire structure of HUD's lead paint safety regulations: If a public housing agency does not immediately abate all of its lead paint and chooses instead to use temporary methods to prevent exposure, the public housing agency must closely monitor the lead paint to head off exposure risks. NYCHA, however, ignores the risks and exposes its residents to lead paint.

62. *Visual Assessments:* Since at least 2010, NYCHA has also violated the regulations requiring it to have trained inspectors conduct annual visual assessments of every apartment unit and common area determined to contain lead paint to identify deteriorated paint, unusual amounts of dust, and paint-related debris on or around lead paint surfaces, as well as structural problems that may be causing those conditions.

63. As with risk assessment reevaluations, visual assessments are critical to identifying and addressing lead paint hazards before a resident or employee is exposed. And yet NYCHA deliberately disregarded this obligation year after year, putting residents at risk.

64. Prior to 2012, NYCHA claims that it conducted visual assessments as part of its annual inspections of apartments. However, those inspections did not include proper visual assessments for lead paint hazards as required by HUD regulations and related local laws.

65. NYCHA concedes that it stopped performing even these annual inspections in 2012 and has yet to come into compliance with the visual assessment requirement.

66. It was not until May 2016—half a year after this Office first sought information from NYCHA about its compliance with HUD’s lead paint safety regulations—that NYCHA began conducting the visual assessments required by HUD’s regulations. Even then, NYCHA limited these visual assessments to approximately 4,200 apartment units where children under six years old lived, rather than inspecting all apartments determined to have lead paint, as required by HUD’s regulations. And NYCHA has since acknowledged that even this small number of visual assessments were conducted by NYCHA employees who were not trained to perform the inspections.

67. Nonetheless, the results of NYCHA’s partial 2016 effort at visual assessments demonstrate its overall failure to properly protect children from lead poisoning: The 4,000 visual assessments in apartments NYCHA has determined to contain lead paint generated approximately 3,900 work orders for repairs of failing interim controls in approximately 1,500 apartments inhabited by children under the age of six. Approximately 2,200 of these work orders described surfaces that had “peeling, flaking, chalking, alligatored, [and] chipping [paint] or appeared to have been chewed on.” And roughly 600 of them were for “[d]oors and windows including frames molding and jambs” that were “sticking or rubbing together or have markings such as denting or chipping[,] indicating damage by repeated sudden force.”

68. In 2017, NYCHA performed visual assessments in almost 9,000 additional apartments. More than 80% of these apartments were found to have potential lead paint hazards.

69. *Lead-Safe Work Practices*: Since at least 2010, NYCHA has violated HUD's and EPA's lead-safe work practice requirements, including requirements that NYCHA prevent residents from going into the work area; seal doors, windows, and vents with protective sheeting; and thoroughly clean the work area after the work has been completed. 24 C.F.R. §§ 35.1330, 35.1345(a), & 35.1350; 40 C.F.R. part 745, subpart E.

70. NYCHA fails to comply with these requirements. Instead, NYCHA sends workers into developments containing lead paint to demolish walls, scrape paint, clean mold, or perform other work that will disturb paint without even checking whether those surfaces contain lead. NYCHA does not consider whether those surfaces have lead paint before sending the workers; and it does not tell the workers about the surfaces that do have lead paint.

71. Moreover, even if NYCHA gave its workers information about lead paint surfaces, the vast majority of workers could not make use of that information because they are not trained to use lead-safe work practices. 24 C.F.R. §§ 35.1330(a)(4) & 35.1350(d) (requiring trained workers or supervisors); 40 C.F.R. § 745.89(d)(1), 745.89(d)(2), 745.90(b)(2) (requiring certified renovators and trained workers). NYCHA has no system in place to ensure that only trained workers are assigned to jobs requiring lead-safe work practices. And until August 2017, NYCHA had last trained its workers on lead-safe work practices in 2008.

72. As a result, maintenance work is routinely performed in developments with lead paint by NYCHA employees who do not know where the lead paint is. Beyond that, even if they learned that a particular job involved a lead paint surface, few of them have been trained to handle the work safely. At the Williamsburg Houses in Brooklyn, for example, where NYCHA's own

testing showed that 91 percent of all apartments tested have lead paint, there were 1,800 paint and plaster-related jobs in 2016 alone. Yet only six percent of the workers performing this work were trained in lead-safe work practices. Similarly, at the Bronx River Houses, where 98 percent of apartments tested have lead paint, there were nearly 1,900 paint and plaster-related jobs in 2016, only twelve percent of which were performed by trained workers. Similarly, at Harlem River Houses in Manhattan, where NYCHA itself concedes that there was “systematic application” of lead paint on walls and other surfaces, there were more than 700 paint and plaster-related jobs in 2016, only eleven percent of which were performed by trained workers.

73. NYCHA’s records show repeated violations of these regulations. For example, at the Williamsburg Houses, which were built in the 1930s and where NYCHA believes that it is “likely” that apartment ceilings and walls (and other locations) contain lead paint, NYCHA sent a worker to paint a peeling kitchen ceiling in December 2016. This worker was not trained in lead-safe work practices.

74. And in Harlem River Houses, which were also built in the 1930s, NYCHA sends employees untrained in lead safe work practices to perform work on surfaces that NYCHA itself has acknowledged had “systematic application” of lead paint. For example:

- In January 2016, NYCHA completed a work order that indicated that the entire bathroom required “demo[lition]” and painting in a Harlem River apartment. NYCHA failed to use trained workers to perform the demolition and painting work on surfaces that NYCHA believes had “systematic application” of lead paint.
- In October 2015, NYCHA performed work in a Harlem River apartment that, according to NYCHA’s work order database, required “demoli[tion]” and “paint[ing]” for plumbing repairs. NYCHA did not use trained workers to perform any of the work, even though NYCHA’s own testing shows that the walls demolished and repaired “likely” contained lead paint.

- In April 2015, NYCHA sent workers to a Harlem River apartment to repair a “badly damaged” bedroom wall that “likely” contained lead paint. None of the workers sent to repair the damaged wall were trained to perform the work.

75. NYCHA fails to comply with lead-safe work practices under the Lead-Safe Housing Rule and the RRP Rule in performing this work. As a result, on these and numerous other occasions, workers will have performed work without providing the necessary warnings to residents, preparing the worksite to protect residents against exposure, or performing safe work practices and necessary clearance procedures, and without having the appropriate training or (in the case of work covered by the RRP Rule) assigning a certified renovator to direct the work.

76. *EIBLL Reporting*: NYCHA also violates the requirement that it “report each known case of a child under [the] age of six with an environmental intervention blood lead level” to HUD. 24 C.F.R. § 35.1130(e)(2). From at least 2010 until 2016, NYCHA failed to provide HUD *any* information regarding children living at NYCHA with EIBLLs, despite the existence of numerous such cases.

77. From 2010 until 2015, NYC DOH informed NYCHA of at least 68 children living in NYCHA with elevated blood lead levels. Because NYC DOH’s age and blood lead level criteria for reporting lead poisonings differ from HUD’s reporting criteria, the fact that NYC DOH reported these 68 cases to NYCHA does not automatically mean that NYCHA was obligated to report them all to HUD. But NYCHA could have sought additional information from its own files or from NYC DOH to ascertain which of the 68 cases of lead poisoning NYCHA was required to report to HUD. NYCHA did not take that approach, nor did it attempt to determine whether it needed to report these poisoned children to HUD. Rather, NYCHA did not report these cases to HUD until after this Office’s investigation began.

78. *EIBLL Risk Assessments:* NYCHA has also violated HUD's (pre-July 2017) requirement to conduct a risk assessment of a development that was previously assumed to be lead-based paint free if a child with an EIBLL is found in an apartment in the development with lead paint hazards. 24 C.F.R. § 35.1130(f). The reason for this requirement is obvious: the lead poisoning of a child and identification of lead paint hazards in that child's apartment demonstrate that the development does, in fact, have lead paint and lead paint hazards.

79. Of the children with EIBLLs between 2010 and 2015, at least four lived in developments that NYCHA has determined to be lead-free.⁷ None of these developments has had a subsequent risk assessment performed. Thus, NYCHA has continued to treat these four developments as if they are lead paint free and lead paint hazard free, when the evidence shows they are not.

80. *Lead Abatement:* NYCHA also fails to comply with the Abatement Rule, including by failing to employ lead safe work practices in the course of abatement work. On multiple occasions, NYC DOH inspectors have observed "[abatement] work being done unsafely," and uncontained "visible construction dust or debris" at NYCHA. And on one occasion, a NYC DOH inspector noted NYCHA's failure to follow lead abatement practices, even when NYCHA workers refused to allow access to the apartment. In March 2015, a NYC DOH inspector visited an apartment undergoing abatement in the Sumner Houses, a development that contains lead paint inside apartments, including on walls. The inspector noticed ongoing construction work, but NYCHA workers "wouldn't allow her in, even after she identified herself and showed her badge and [identification]." Still, the NYC DOH inspector was able to "observe[] no safety rules being followed," including "no warning signs posted" and "no proper . . .

⁷ These developments are listed in the attached Exhibit B.

enclosure[s].” She also observed “stripped paint shavings on the floor which had no plastic covering.” When NYC DOH followed up with a senior NYCHA manager, the manager suggested that the inspector may have been denied access because the inspector did not have her own safety equipment. But the inspector did not accept that explanation: “I highly doubt myself that it was a safety issue, as the workers made no mention of it. I just think they (NYCHA) had enough time to think about it and come back with a plausible rebuttal. It’s all a learning experience!!!!!!”

81. *Disclosure of Lead Information:* Although NYCHA developments do make some of the disclosures required by the Lead Disclosure Rule, NYCHA management knows that they do not consistently comply fully with the regulation. 24 C.F.R. part 35, subpart A; 40 C.F.R. part 745, subpart F. For example, before one HUD inspection, NYCHA managers discovered an entire development without the required documents. NYCHA management has also found that the developments generally fail to maintain and disclose risk assessment reevaluations reports as required.

82. *Public Health Consequences of NYCHA’s Violations.* NYCHA’s violations have serious public health consequences. At least 19 children had elevated blood lead levels while living in NYCHA apartments found to have lead paint hazards. But this number understates the true extent of the harm likely caused by NYCHA’s violations.

83. NYC DOH’s data shows that many hundreds of additional children living in NYCHA housing have been found to have blood lead levels of 5 micrograms per deciliter or more. Studies have found that blood lead levels of even 5 micrograms per deciliter in children are associated with brain function deficits, including learning disabilities and behavioral problems. Indeed, 5 micrograms per deciliter is the current reference level at which the Centers for Disease

Control and Prevention recommends public health actions be initiated. However, NYC DOH generally has not conducted environmental investigations for blood lead levels below 10 or 15 micrograms per deciliter (depending on the child's age), nor has it reported such cases to NYCHA; as a result, neither NYCHA nor NYC DOH has investigated whether the vast majority of children with elevated blood lead levels were exposed to lead paint in their NYCHA apartments.

84. Between 2010 and 2015, NYC DOH identified 202 children living in NYCHA with elevated blood lead levels of 10 micrograms per deciliter or more. NYC DOH inspected the homes of 121 of these children, and did not inspect the homes of 81 of these children.

85. Of the 121 children with elevated blood lead levels whose homes were inspected, NYC DOH found peeling lead paint in the homes of 68 children, and issued corresponding orders to NYCHA to abate the lead paint. But it is NYCHA policy to contest each and every NYC DOH order to abate lead paint. NYCHA's process for contesting the lead paint finding is to send its own employees to retrieve a sample of the paint that NYC DOH identified to be positive for lead, and send that sample to a third-party laboratory to test for lead. As a result of this contestation process, NYC DOH retracted its findings of lead paint in the NYCHA homes of 50 children, leaving 18 confirmed cases. In 2016, NYC DOH confirmed one more case.

86. Success in the contestation process does not answer the question whether the child was poisoned by lead paint in the home. For example, one lead poisoned child lives in Red Hook Houses in Brooklyn. In July 2013, the child was found to have a blood lead level of 12 micrograms per deciliter at the age of four. When NYC DOH inspected the child's NYCHA apartment, it found four wall surfaces with disturbed paint that tested positive for lead. NYC DOH also "observed a huge hole on wall #4 of the apt foyer and wall #2 of the kitchen with

severe chipping paint resulting in gross dust from the paint.” NYC DOH noted that the “holes in the walls and severe chipping paints [were] the result of a burst pipe in the wall,” which “was fixed but not the holes.” (During the same inspection, NYC DOH observed “an infestation of roaches in every room of the apartment.”) Approximately a week later, NYC DOH issued an order requiring NYCHA to abate the lead paint.

87. However, consistent with NYCHA’s policy to contest every NYC DOH order to abate lead paint, NYCHA immediately contested NYC DOH’s testing results. NYCHA conducted its own testing, which showed results contradicting NYC DOH’s. Ultimately, NYC DOH agreed to withdraw its order to abate. But in a follow-up inspection, NYC DOH again found that the child’s apartment contained lead “exceeding allowable limits,” this time as revealed by dust wipes. NYCHA was ordered to “immediately remove such nuisance” by cleaning the dust off the surfaces. One week later, NYCHA complied.

88. For yet another reason, these numbers likely understate the number of affected children at NYCHA. NYC DOH’s information comes from doctor reported blood lead test results. And according to NYC DOH’s data, only fifty-one percent of children in New York City receive lead testing at the recommended ages of one and two. Even those tests would not identify a child exposed to lead paint for the first time at three years old, when exposure can still cause irreversible brain damage.

89. Whether the total is 19 poisoned children or a larger number, it is critical that NYCHA comply with applicable lead paint regulations to protect the public health, a fact well known to NYCHA’s management. As a NYCHA executive explained in an email expressing concern about delay in commencing NYCHA’s visual assessments:

[A]ny delay to make safe an [apartment] that has a child under 6 and we have identified a potential hazard leaves us open to possibly extend an exposure period that we can remediate relatively simply.

90. He added, recognizing not just the potential health consequences but also how the public would view the moral gravity of the situation:

If [the press] show up and the resident shows a surface with defective paint, that we have already identified as such, then shows a disclosure stating that the failed coating is presumed to contain lead but we are waiting before we remediate to do further testing knowing a child resides in the apt, we are toast.

C. NYCHA Has Repeatedly Made False Statements to Cover Up Its Failure to Follow Lead Paint Safety Regulations

91. NYCHA has repeatedly made false statements to HUD and the public about its failure to comply with federal law mandating lead paint safety.

92. Every year since at least 2010 through 2016, NYCHA has submitted certifications to HUD stating that NYCHA will comply with HUD's lead paint safety regulations. Moreover, in the same certifications and other filings with HUD, NYCHA asserts its compliance with all applicable HUD regulations, including both the lead paint safety regulations and the "decent, safe, and sanitary" regulation that incorporates the lead paint requirements. In addition, every year, NYCHA submits a statement to New York City for inclusion in New York City's Consolidated Plan to HUD, falsely stating that "NYCHA complies with Federal, State, and City regulations concerning lead and executes HUD directives regarding lead-based paint (LBP)." It has made similar statements in response to outreach from HUD.

93. But NYCHA has been in violation of the regulations all along, and NYCHA managers knew it.

1. NYCHA's Senior Operations Managers Were Aware That NYCHA Violates HUD's Lead Paint Safety Regulations

94. High-level NYCHA officials were aware that NYCHA was not in compliance with HUD's lead paint safety regulations.

95. *Risk Assessment Reevaluations.* NYCHA senior Operations managers have known for many years that NYCHA is in violation of the risk assessment reevaluation requirement: In 2011, an email between two senior Operations managers explained that although risk assessment reevaluations are "supposed to take about 2 years between cycles, with staffing and contractor issues that has historically not been possible." At that time, one of these individuals relayed the information to a more senior NYCHA executive. Approximately, one year later two NYCHA senior Operations officials again discussed NYCHA's failure to conduct required risk assessment reevaluations. In 2016, a NYCHA executive raised the issue again with another senior executive, telling him that NYCHA was not conducting risk assessment reevaluations as required, and requesting funding to conduct additional reevaluations. But the funding request was denied, allowing matters to get worse.

96. *Visual Assessments.* NYCHA senior Operations managers have also been aware that NYCHA was failing to conduct visual assessments for lead paint, which in many cases are required under both HUD regulations and City law. A NYCHA executive has acknowledged that he was aware as early as 2013 that NYCHA was failing to conduct required visual assessments, and that he raised the problem with the senior executive to whom he then reported. Separately, internal NYCHA emails from 2015 show that NYCHA considered—but rejected—conducting visual assessments in a pilot inspection program. In July 2015, an email was sent to NYCHA Operations executives and senior managers by a NYCHA manager with the subject line "Apartment Inspections – Need to incorporate Lead." The email "remind[ed] everyone" that

“while we agreed” that “we would not concern ourselves” with lead inspections required by City law in connection with rolling out a pilot program of Operations Department inspections at that time, “we said . . . when we build out the [inspections] program, we would incorporate this need.”

97. Approximately nine months later, the NYCHA Chair learned that NYCHA had failed to perform the visual assessments required under local law, and thereafter learned that NYCHA’s failure violated federal law.

98. NYCHA did not begin conducting visual assessments in apartments determined to contain lead paint until May 2016, and still has failed to conduct even one visual assessment at tens of thousands of covered apartments.

99. *Lead-Safe Work Practices.* NYCHA managers were also aware that NYCHA was in violation of HUD’s lead-safe work practices requirement. Senior NYCHA officials knew that NYCHA never had—and still does not have—a system to notify maintenance workers when their work would impact lead paint surfaces, triggering the need for lead-safe work practices. In 2015, for example, at least two NYCHA officials considered sending lead paint information to those developments with widespread lead paint, but did not do so. Additionally, on at least two separate occasions, senior NYCHA personnel discussed the possibility of integrating information about the location of lead paint into NYCHA’s maintenance work order systems, but this was not done.

100. Beyond that, NYCHA management knew that even if it notified workers about the presence of lead paint, few workers had been trained on lead-safe work practices. Before this Office’s investigation began, the last time NYCHA had trained a significant number of workers to follow lead-safe work practices was in 2008. At least two senior Operations officials knew that this shortfall of trained workers grew more extreme with the passage of time. Indeed, in a May

2016 email, one senior NYCHA manager overseeing properties in Brooklyn advised a NYCHA senior Operations executive that “there [were] only 33 paint[ers]/paint supervisors trained in lead safe practices” working in Brooklyn developments—developments in which NYCHA had determined that at least 12,000 apartments could contain lead paint.

101. *Children with Environmental Intervention Blood-Lead Levels.* Senior NYCHA managers also knew that NYCHA was required to report children with environmental intervention blood lead levels to HUD and that it was not doing so. Between 2010 and 2013, NYCHA received at least 54 violation notices from NYC DOH informing NYCHA that children living in NYCHA apartments with deteriorated lead paint tested positive for high concentrations of lead. Though there are technical differences between NYC DOH’s and HUD’s thresholds for reportable lead levels, NYCHA took no steps to determine which of these children met HUD’s reporting thresholds. NYCHA failed to report any to HUD. Further, when HUD asked NYCHA in 2013 to provide the number of children with environmental intervention blood lead levels living in NYCHA housing, NYCHA failed to provide any information. In fact, NYCHA did not send HUD any information about children with elevated blood lead levels until after this Office’s investigation began. In addition, a NYCHA senior Operations manager admitted in a 2017 interview that he knew that, under the regulations, NYCHA was required to conduct a new risk assessment reevaluation in developments thought to be lead-free if a child with an environmental intervention blood lead level was exposed to a lead paint hazard in that development. NYCHA should have conducted risk assessment reevaluations in at least three NYCHA developments where children with environmental intervention blood lead levels lived. To date, it has failed to do so.

102. *Disclosure of Lead.* Senior NYCHA managers also knew that NYCHA was deficient in complying with the Lead Disclosure Rule. When HUD asked to visit a development to check its “lead disclosure documents” in 2010, NYCHA Operations staff decided they should “pick a small development . . . managed well.” They picked the Straus Houses, and a senior Operations manager asked that someone “reach out to [the development’s] Manager and have a staff member go over the documents they should have on hand and in the residents folders,” emphasizing that “everything as far as lead must be on point.” But it was not. Another senior Operations manager reported that “none of the resident folders had [lead paint] acknowledgement forms or any other [lead paint] info within.” Similarly, in 2013, in preparation for another HUD inspection, a NYCHA manager requested that NYCHA’s Lead Paint Program Unit provide the developments with copies of the latest risk assessment reevaluation report, even though the developments should have had such documents on site and made them available for review in connection with disclosures. As a senior Operations manager explained, “[u]nfortunately, nobody ever keeps [the risk assessment reevaluation reports] like [they are] supposed to.”

2. NYCHA Repeatedly Made False Statements About Lead Paint

103. With full knowledge of NYCHA’s violations of HUD’s lead paint safety regulations, NYCHA has repeatedly made false statements to HUD and the public.

104. Every year, since at least 2010 and through 2016, NYCHA has submitted certifications to HUD falsely representing that NYCHA “will comply with [federal lead paint safety regulations].”

105. In 2015 and 2016, NYCHA found itself under intense scrutiny, after public reports of a young girl living in NYCHA housing with dangerously high levels of lead in her blood stream, the crisis in Flint, Michigan, regarding the presence of lead in the water, and this Office’s

investigation of lead paint issues at NYCHA. Instead of putting systems in place to protect residents from lead exposure, NYCHA opted to falsely reassure HUD and the public.

106. For example, on April 17, 2015, in response to news articles about a lead-poisoned toddler living in NYCHA housing, NYCHA managers drafted a letter on behalf of NYCHA's Chair to elected officials in New York City, falsely stating that "NYCHA pays close attention to lead paint risks" and that NYCHA "complies with Federal, State, and City regulations concerning lead." This same letter was sent to resident leaders in NYCHA developments. At that time, at least two of the senior Operations managers involved in drafting the letter to elected officials and residents knew that NYCHA had long failed to conduct mandatory visual assessments of apartments presumed to contain lead paint.

107. The following month, NYCHA and NYC DOH held meetings with residents and NYCHA employees. The NYCHA presentation, drafted by high-level NYCHA officials, told residents and NYCHA employees that the "vast majority of NYCHA developments" do not have lead paint and that NYCHA takes "extra safeguards" in the developments that do. At that time, at least two senior NYCHA managers involved in drafting the presentation knew that more than half of NYCHA developments had been confirmed to have at least some lead paint on the premises, and roughly thirty percent of those NYCHA developments had been confirmed to have lead paint in apartments. The senior NYCHA managers also knew that NYCHA had failed to perform annual visual assessments and risk assessment reevaluations for years.

108. On August 31, 2015, NYCHA submitted to HUD, via New York City's 2014 Consolidated Plan, a statement drafted by senior NYCHA officials that "NYCHA complies with Federal, State, and City regulations concerning lead and executes HUD directives regarding lead-based paint (LBP)." At that time, the senior NYCHA officials who drafted NYCHA's statement

of compliance knew not only about the lack of visual assessments and risk assessment reevaluations, but also that NYCHA was assigning untrained maintenance workers to disturb lead paint surfaces without telling them that there was lead paint or that they were required to use lead-safe work practices.

109. On October 12, 2015, NYCHA submitted to HUD its certification falsely representing that NYCHA “will comply with [federal lead paint regulations]” and currently is in compliance with applicable regulations. At that time, senior NYCHA officials knew not only about the noncompliance with respect to visual assessments and risk assessment reevaluations and lead-safe work practice requirements, but also that NYCHA often failed to provide residents with required disclosures regarding the existence of lead in their developments.

110. In a February 2016 email, NYCHA management responded to lead-related questions posed by HUD, again falsely assuring HUD that NYCHA “complies with Federal, State, and City regulations concerning lead paint hazards and executes HUD directives regarding lead-based paint.”

111. On March 28, 2016, after this Office’s investigation of lead paint issues at NYCHA became public, the NYCHA Chair testified before the New York City Council that NYCHA regularly conducted inspections of apartments with lead paint as required by New York City law. At the time of these statements, at least two NYCHA executives knew that, for many years, NYCHA had failed to conduct visual assessments (as required by HUD or by local law) or risk assessment reevaluations as required by HUD’s regulations.

112. On June 12, 2016, NYCHA and NYC DOH issued a joint press release titled “Lead-Based Paint and New York City Housing Authority (NYCHA): Facts.” This press release falsely stated that NYCHA has done “rigorous work” to “remediate any lead-based paint

whenever [NYCHA] find[s] it.” It further stated that NYCHA “performs annual inspections of units for lead-based paint,” without disclosing that those inspections had just started the month before. In addition to these false and misleading statements, NYC DOH added its own “fact”: “Prevention and abatement efforts at NYCHA properties are an unqualified success.” At that time, senior NYCHA officials knew that NYCHA had failed to conduct mandatory visual assessments under federal and local law. In addition, senior NYCHA officials knew that NYCHA’s prevention efforts were far from “success[ful].”

113. In September 2016, NYCHA made a presentation to senior HUD management addressing lead paint at NYCHA. During that presentation, NYCHA finally admitted that it had failed to conduct annual visual assessments of NYCHA apartments with lead paint. However, NYCHA failed to disclose its other violations of HUD’s lead paint safety regulations. Instead, NYCHA continued minimizing the problems, falsely telling HUD that “[o]nly two developments (less than .0001% of sample) have lead-based paint on the walls,” when NYCHA’s own data reveals that more than 25 developments have tested positive for lead paint on walls.

114. On October 12, 2016, NYCHA again falsely certified to HUD that NYCHA “will comply with [federal lead paint safety regulations].”

115. And on December 16, 2016, NYCHA again submitted a statement to HUD in a New York City Consolidated Plan that falsely stated that “NYCHA complies with Federal, State, and City regulations concerning lead and executes HUD directives regarding lead-based paint (LBP).”

116. All of these statements by NYCHA were false: Lead paint exists at hundreds of NYCHA developments; NYCHA does not have the procedures in place to monitor lead paint hazards; NYCHA has failed to disclose important information to HUD, its residents, and the

public about lead paint hazards at the developments; and NYCHA was violating core provisions of federal lead paint regulations even as it was making the false statements.

117. NYCHA's repeated false statements about its lead compliance allowed NYCHA to avoid HUD scrutiny and remain noncompliant for years.

**NYCHA COVERS UP ITS FAILURE TO PROVIDE THE
DECENT, SAFE, AND SANITARY HOUSING REQUIRED BY LAW**

118. NYCHA's failure to comply with lead paint safety regulations is just one element of the environmental health crisis at NYCHA. More broadly, NYCHA fails to provide "decent, safe, and sanitary" housing because of systemic lead-paint violations, pervasive mold, widespread lack of heat in winter, infestations of rats, mice, and roaches, and chronic elevator outages in high-rise buildings. And NYCHA has concealed these conditions from HUD, by undermining HUD inspections and thereby rendering the inspection results unreliable.

A. Decent, Safe, and Sanitary Regulations

119. Public housing's central purpose is to provide decent, safe, and sanitary housing to lower-income families. Therefore, Congress directed HUD, in the U.S. Housing Act, as amended, to promulgate "housing quality standards . . . that ensure that public housing dwelling units are safe and habitable." 42 U.S.C. § 1437d(f)(2). HUD in turn imposed a core regulatory requirement that all public housing "be decent, safe, sanitary, and in good repair." 24 C.F.R. § 5.703 (the "decent, safe, and sanitary" regulations); *see also* 24 C.F.R. Part 902. This requirement is also reflected in the Annual Contributions Contract that governs certain HUD payments to NYCHA.

120. HUD regulations not only set an overarching mandate for "decent, safe, and sanitary" housing, but also impose specific requirements designed to protect the public health. Among other things, housing agencies must:

- Comply with HUD’s lead paint safety regulations. 24 C.F.R. § 5.703(f).
- Ensure that “dwelling units and common areas . . . have proper ventilation and be free of mold.” 24 C.F.R. § 5.703(f).
- Prevent “infestation by rats, mice, or other vermin.” 24 C.F.R. § 5.703(f).
- Maintain heating and elevator systems that are “functionally adequate, operable, and in good repair.” 24 C.F.R. § 5.703(c).

121. HUD conducts annual Public Housing Assessment System (“PHAS”) inspections to assess physical conditions (and certain other matters) at housing agencies. *See generally* 24 C.F.R. Part 902. At large housing agencies, HUD inspects a randomly generated subset of apartments at each development, plus building common areas, and scores the housing agency based on its findings. Excessive deficiencies can lead to adverse consequences ranging from more frequent inspections to the appointment of a receiver to take over the housing agency. 24 C.F.R. §§ 902.13, 902.73, 902.75, 902.83.

B. NYCHA Deceives HUD’s Inspection Program

122. NYCHA is keenly aware that HUD is the principal agency funding NYCHA and may impose limitations on HUD funding if NYCHA fails to comply with applicable regulations. Moreover, HUD has the authority to appoint a receiver to replace NYCHA management. NYCHA’s 2015 “NextGeneration” plan—a reform plan that nonetheless has failed to address core deficiencies in operations and environmental health—expressly acknowledges the potential for a federal receivership.

123. In order to ward off consequences for failing to maintain proper living conditions, NYCHA management has repeatedly misled both HUD and the public regarding the true living conditions at NYCHA.

124. A key way that NYCHA has deflected HUD scrutiny of its living conditions, since before 2010, has been to hide conditions from HUD inspectors.

1. HUD's Public Housing Inspections

125. Every year, HUD assesses living conditions at NYCHA through PHAS inspections. HUD uses PHAS inspections as an important means to evaluate NYCHA's performance. *See generally* 24 C.F.R. Part 902.

126. PHAS inspections evaluate four components: NYCHA's physical conditions, financial condition, management, and capital funding. The result of a PHAS inspection is a "PHAS score" of up to 100 points. 24 C.F.R. § 902.9.

127. A housing agency's overall "PHAS score" is based on its separate scores for the four components of the PHAS inspection. A housing agency's overall PHAS score, taken in combination with the housing agency's scores on the four separate components of the PHAS inspection, determines whether the housing agency will be designated as a "high performer," a "standard performer," a "substandard performer," or a "troubled performer." 24 C.F.R. §§ 902.9, 902.11.

128. HUD gives the most weight to the physical conditions component of PHAS inspections. 24 C.F.R. § 902.9. "The objective of the physical condition [assessment] is to determine whether a [public housing agency] is meeting the standard of decent, safe, sanitary housing in good repair." 24 C.F.R. § 902.20(a). To achieve this, HUD inspects common areas and a sample of apartments at each NYCHA development or group of developments, generally every year. 24 C.F.R. § 902.22.

129. A passing score on the physical conditions component is 60 percent, although higher scores can result in additional, positive consequences for NYCHA. 24 C.F.R. §§ 902.11,

902.25. For example, low scores can result in HUD-imposed corrective action plans, whereas high scores can lead to relief from certain reporting requirements. 24 C.F.R. § 902.11.

130. Each development has its own incentive to score as many points as possible. If a property receives a physical condition score of less than 80 points, HUD will inspect the property again the following year. But if a property scores between 80 and 90 points, HUD will inspect the property every two years. And if a property scores 90 points or more, the property will skip two years of HUD inspections in a row. 24 C.F.R. § 902.13.

131. NYCHA staff know that if they can find ways to earn extra PHAS points, then they can ward off further HUD scrutiny. In one case, after a development passed its PHAS inspection, a Deputy Director emailed staff to congratulate them on a passing score. Nonetheless, he instructed that they should look for any and all ways that the development might appeal to HUD to get back any points that were deducted during the inspection. He added with emphasis: “[W]e only need two points back to get a year off [from inspection].” Any extra points are also important to NYCHA as a whole, even if those points do not make the difference for the individual development, because each property’s score will affect NYCHA’s score overall, and may therefore affect whether NYCHA is classified as a high, standard, substandard, or troubled performer. 24 C.F.R. § 902.25.

132. But HUD can only rely on the physical condition assessment process if housing agencies participate in good faith. Thus, although NYCHA has been scored a “standard” performer since 2010, its score is not reliable because NYCHA has systematically deceived HUD’s inspectors by concealing the true condition of NYCHA housing during those years.

2. NYCHA’s Pre-PHAS “Magic”

133. Just before a PHAS inspection, NYCHA management and staff focus on maximizing PHAS scores. Management circulates dossiers on individual inspectors to enable

staff to target the conditions for which each inspector is known to deduct points. NYCHA diverts “quality assurance” staff—typically responsible for verifying work after it is performed by NYCHA maintenance workers—to scout for problems to be corrected at the to-be-inspected developments. And it shifts staff and resources from developments not scheduled for inspection to perform emergency efforts to make the inspected developments “PHAS ready.”

134. In its PHAS preparation, NYCHA goes to great lengths to mask problems that otherwise exist year-round. The contrast is not lost on NYCHA residents. In December 2015, one NYCHA residents association complained to NYCHA after being told that it would take four months to repair a broken door that the residents believed to be a fire hazard:

Let’s treat it like Phas and get a magic carpenter up there to change the door like we’ve been seeing since last week to fake for the inspector. These actions show that management doesn’t care about their residents unless it is an inspection, a special visit from downtown or a tragedy.

135. Or, as a resident in Pomonok Houses put it in 2015, in an email forwarded to NYCHA’s senior management: “PHAS came and . . . just like children Pomonok hid[] all the trash under the bed.”

3. NYCHA Hides Housing Conditions from Inspectors

136. NYCHA’s PHAS preparations include hiding conditions from inspectors.

137. Some of the starkest misconduct occurs around leaks, a major PHAS point deduction as well as a cause of mold, pests, and other conditions.

138. For example, former NYCHA Directors in Brooklyn and the Bronx have confirmed that development staff would shut off a building’s water supply just before the PHAS inspector arrived to inspect common areas in order to temporarily stop ongoing leaks that would otherwise be visible. Once the PHAS inspector left the building, the water supply would be restored. Deputy Directors at NYCHA knew of this practice.

139. NYCHA uses other techniques to hide leaks as well. When a standpipe began leaking two days before a 2013 PHAS inspection at the Frederick Douglass Houses, a NYCHA senior manager, copying a NYCHA administrator, pressed others at NYCHA on whether there was a “clamp or something we can put on this to cover up the leak.” Because the shape of the pipe would not permit a clamp, the NYCHA administrator suggested attaching a piece of insulation on the morning of the inspection to absorb the leaking water. They ultimately decided to cover the pipe with material from an oil spill kit for the inspection.

140. According to one former maintenance worker, the management at NYCHA developments would instruct workers to put tape over holes in pipes before the PHAS inspections, to prevent HUD from seeing the holes.

141. During a 2013 PHAS inspection at a development in Brooklyn, a boiler room leak led to a 10-point deduction and a failing score. A NYCHA manager in Brooklyn explained that the point deduction was just “[b]ad timing,” because there was not much his staff “could have done to stop or hide it.” A senior Operations manager then forwarded this email to an Operations executive explaining: “FYI - Big hit that literally happened as the inspector was walking in. Must have cleaned what was holding it together off.”

142. What is true of leaks is also true of ventilation: NYCHA has made efforts to hide its ventilation problems from HUD inspectors, leading to better PHAS scores and depriving HUD of important knowledge relevant to mold and other living conditions.

143. In 2014, when HUD was scheduled to inspect the Bronxchester development, managers focused on the fact that two roof fans were out of order. To cover this up for the inspection, a senior manager proposed—in an email copied to a senior executive—that NYCHA “swap out 2 fans from [another development] for this Inspection.”

144. A former NYCHA Deputy Director explained a trick he personally used to make a broken-down roof fan appear to be functioning for a PHAS inspection: He put a refrigerator motor inside the inoperative roof fan. In this way, he fooled the PHAS inspector into thinking that the roof fan had a functioning motor.

145. Beyond leaks and ventilation, NYCHA often covers up holes in walls and ceilings, which (in addition to being point deductions) are hiding places for cockroaches and other pests in apartments. According to a former manager, it was a common practice to stuff holes in the walls with newspaper and cork and then paint over the holes, to conceal them from PHAS inspectors. A former NYCHA manager from Manhattan directed maintenance workers, in advance of PHAS inspections, to use a foam spray to disguise holes in the wall that needed plastering.

146. NYCHA property managers often direct maintenance workers to *literally* cover up broken doors in common areas for PHAS inspections, according to one former property manager. That is, instead of fixing the door, the maintenance workers will remove it, cover the area with plywood, and paint over it, so that the inspector will not know that there is a broken door at all.

147. In the same vein, a former NYCHA caretaker has explained how her superintendent would instruct staff before PHAS inspections to lock the doors of basement rooms with dangerous or unsanitary conditions and post a sign reading “Danger: Do Not Enter,” to keep the inspectors out. After the inspections were completed, the signs would be removed and staff would continue to use those rooms in carrying out their daily responsibilities. Another former maintenance worker reported that NYCHA staff would build false walls out of a single layer of plywood to conceal dilapidated rooms from PHAS inspectors.

148. Certain NYCHA staff openly discussed hiding conditions from PHAS inspectors. In 2013, a NYCHA superintendent emailed a group of NYCHA staff to say, “We’re hiding four

big pails of oil behind your containers for our PHAS inspection today. We'll get them after it's over." The superintendent then forwarded his email to a NYCHA senior manager, to request assistance in eventually disposing of the oil.

4. NYCHA Trains Its Staff to Undermine the PHAS Program

149. The intentional nature of NYCHA's misconduct with respect to the PHAS inspection program is illustrated by the fact that NYCHA actually trained its staff on how to deceive HUD inspectors. NYCHA's internal guidelines on PHAS inspections expressly encourage staff to use subterfuge of this kind. For a decade, NYCHA provided its staff with a list of "Quick Fix Tips" that served as a how-to manual for misleading inspectors.

150. Many of NYCHA's "Quick Fix Tips" revolve around using paint and plywood (or a 2x4 or cardboard) to cover over the problematic condition during the inspection. Thus, the Quick Fix Tips include the following (all emphases added):

- **Ceiling Tiles:** Tiles, including those in community facilities, that are damaged or stained need to be replaced or painted. *Painted cardboard can be used instead.*
- **Drain Covers:** Ensure all drains and cleanout covers are in place. *Plywood cut and painted can be a good substitute.* Drill holes for drainage.
- **Fencing:** Missing fence sections are not deficiencies if there are no means to attach additional sections. *Remove brackets and any sign of attachment. A piece of 2x4 can be attached to the end and painted black if necessary.*
- **Mailboxes:** If any doors are missing, replace. *If parts are an issue, temporarily cover them up for the day.*
- **Improperly Stored Flammables:** Flammable aerosol cans should be placed out of sight. On the day of inspection, remove all gasoline powered equipment to an outside area.

151. These “Quick Fix” materials were standard NYCHA guidance to staff for over a decade. These techniques were included in annual trainings instructing NYCHA staff how to prepare for PHAS inspections. Borough-level management circulated a link to these tips widely to development leadership in “Round Robin” emails. Senior Operations managers were often copied on emails circulating information on the Quick Fix Tips. Just before this investigation began, in 2015, a NYCHA borough director emailed the Quick Fix Tips to a senior Operations executive and notified him that these tips would be sent to developments to “remind staff on how to correct/abate deficiencies.”

152. Indeed, NYCHA’s “Quick Fix Tips” were long maintained on NYCHA’s intranet as reference material for staff. It was only removed in 2017, after this Office questioned senior NYCHA executives about the document in front of NYCHA’s attorneys.

5. NYCHA Front-Runs Inspectors

153. In addition to concealing defects from HUD, NYCHA undermines the integrity of PHAS inspections by improperly sending personnel ahead of inspectors to repair deficiencies during inspections.

154. For example, NYCHA sends teams of elevator mechanics to stay one step ahead of PHAS inspectors. In a September 2013 email, an elevator supervisor confirmed to NYCHA’s elevator chief that a “team [of elevator mechanics] ha[d] been instructed to stay one building ahead of the PHAS inspector, during the inspections.” The next year, a senior manager emailed a dozen NYCHA employees, including a senior Operations executive, that “the site team [of elevator mechanics] or assigned staff will lead the PHAS inspection team by 2 buildings to ensure no[-]service conditions are abated,” to ensure no points were lost for elevators. He went further, advising that “Mandated DOB [Department of Building] inspections will be rescheduled as not to impact scoring.” In 2015, two NYCHA managers, copying two other NYCHA executives,

reiterated that a “team of elevator mechanics should be on site for any unforeseen elevator outages” during PHAS inspections.

155. Maintenance staff take the same approach. One maintenance worker employed by NYCHA through 2016 explained that a maintenance worker would be given a single electric panel cover and tasked with running ahead of the inspector to fit that single cover on each uncovered electrical box before the inspector arrived.

156. More broadly, NYCHA creates a culture in which staff feel compelled to obtain high PHAS scores, no matter the cost. A senior NYCHA executive would monitor each development’s PHAS scores and how scores change over time. Managers and staff know that they are expected to address or cover up problems before the PHAS inspector arrives. As one Borough Director instructed her borough’s property managers and supervisors, in an email attaching the Quick Fix Tips: “[Y]ou must take ownership in this process and understand that you are the development supervisors and are responsible for the outcome of these inspections.”

C. NYCHA Fails to Provide Decent, Safe, and Sanitary Housing

157. By subverting the PHAS inspection process, NYCHA has concealed from HUD its failure to meet the decent, safe, and sanitary requirement of 24 C.F.R. § 5.703 and other related requirements. *E.g.*, Annual Contribution Contract § 5 (requiring NYCHA to develop and operating housing “in compliance with . . . all applicable . . . regulations”).

158. At NYCHA, lead paint safety rules are often violated. Leaks are common and peeling paint frequently goes unaddressed. NYCHA’s own maintenance procedures often are not followed. Many categories of repairs that should be quickly addressed instead take weeks or months.

159. Serious public health problems abound, above and beyond those relating to lead paint: Recurring mold growth infects thousands of apartments because of leaks and poor

ventilation, a particular health risk for residents with asthma. NYCHA often fails to provide sufficient heat in winter, leading to frigid indoor temperatures that threaten residents' health. Pest infestations are common, fostered by NYCHA's failure to fix leaks and provide basic sanitation, again affecting tenants with asthma. Elevators frequently fail to work, stranding elderly and disabled tenants.

160. NYCHA's failures have lead residents to unsafe self-help: Residents scrape large mold patches from their bathroom ceilings; use potentially dangerous pesticides; and heat apartments with ovens or stoves. They climb unlit, hazardous stairwells when the elevators do not work.

161. And NYCHA's problems with lead, mold, heat, elevators, and pests are not the whole story. In recent years, the New York City Department of Investigation has found that NYCHA fails to properly conduct key safety checks of items like smoke and carbon monoxide detectors in its apartments, and the New York City Comptroller has found that the majority of NYCHA's playgrounds have "substandard and visibly hazardous conditions." A March 2018 report by the New York State Department of Health found that 83% of inspected NYCHA units contained a condition that could pose a health hazard to tenants. All told, NYCHA does not provide its residents with housing that is decent, safe, and sanitary.

1. NYCHA Fails to Comply with Lead Paint Requirements

162. As described above, NYCHA has systematically failed to comply with HUD's lead paint safety rules, notwithstanding the "decent, safe, and sanitary" regulation requiring that "housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards." 24 C.F.R. § 5.703(f).

2. NYCHA Has Widespread, Recurring Mold

163. Mold often grows unchecked at NYCHA, notwithstanding HUD's requirement that public housing "be free of mold." 24 C.F.R. § 5.703(f).

164. Mold at NYCHA is widespread. From 2013 to 2016, NYCHA residents made between 18,000 and 28,000 complaints about mold growth every year, and that number has been generally increasing. Nearly 28,000 mold complaints were made in 2016 alone. And the mold growth in NYCHA units is substantial, according to NYCHA's own data. Of the mold complaints between 2014 and 2016 for which size data is available, 60% involve mold growth covering 10 or more square feet, as confirmed by NYCHA's maintenance staff. Nearly 300 mold complaints have involved mold growth covering more than 100 square feet, again, according to NYCHA employees.

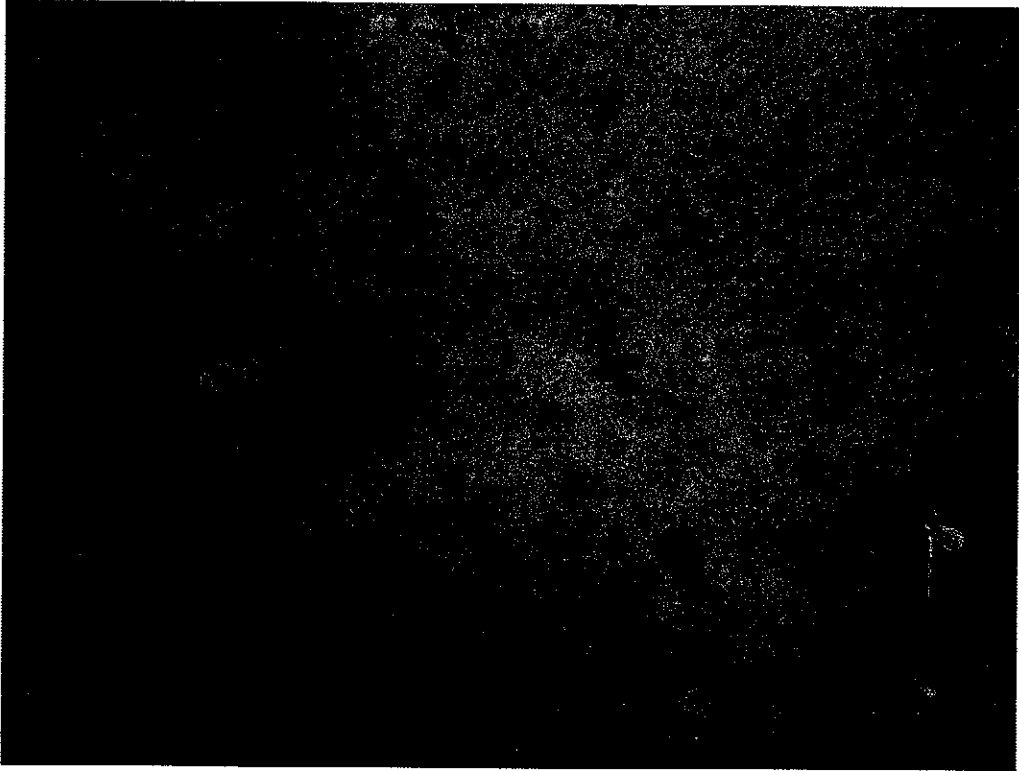
165. Mold threatens residents' health. When mold grows in a home, it can release toxins and allergens linked to significant respiratory problems, including asthma attacks. Asthma is also a significant public health problem for adults in NYCHA housing. According to data from NYC DOH, between 2012 and 2014, the rate of asthma hospitalizations for NYCHA residents aged 20 and above was four times higher than for the rest of New York City.

166. Mold grows where there is sustained moisture, which is endemic at NYCHA as a result of leaks, flooding, and poor ventilation. From 2013 to 2016, NYCHA residents complained about flooding or leaks from ceilings, walls, and pipes between 117,000 and 146,000 times each year, and again, those numbers have been increasing. Ventilation at NYCHA is often broken, shut off, or too weak to be effective, leaving interior rooms unable to vent moisture. According to NYCHA's own records, where such data is available, roughly 3 out of every 5 mold complaints are caused by leaks and poor building ventilation.

167. One example of how mold and leaks affect residents is the case of a tenant from the Sheepshead Bay Houses. This resident, who has three children—two of whom have been diagnosed with “persistent asthma”—had complained to NYCHA about mold and leaks numerous times between June 2013 and February 2015. Yet NYCHA had denied the resident’s request that her family be transferred to a new apartment as a reasonable accommodation based on her children’s asthma. A NYCHA staff member visited this resident’s apartment in February 2015 and confirmed the presence of “mold and mildew throughout her apartment.”

168. In another instance, a family in the Long Island Baptist Houses experienced repeated leaks and mold, with over a dozen mold growths from 2013 to 2017. The family repeatedly complained to NYCHA, which recorded numerous work orders with descriptions like “flooding” and “constant leaking,” including one from November 2016 for “roof leaking above.” But the problem was not addressed, and in 2017, the ceiling in the bathroom collapsed, the result of years of water damage.

169. No one should have to live with mold like what NYCHA maintenance workers recorded in this apartment:



170. Nor the mold recorded in this NYCHA unit:



171. Worse, NYCHA has often proven unable to eliminate mold in response to residents' complaints. Although NYCHA eventually cleans the mold from the walls, the mold grows back in many cases because NYCHA does not successfully address its root causes. More than 30% of the time, mold growth returns after NYCHA claims to have addressed it.

172. Because of NYCHA's failure to adequately address persistent mold in NYCHA apartments, NYCHA residents are forced to try to fix even serious mold problems themselves. For example, one resident in the Baruch Houses reports that, for years, he has cleaned large patches of mold off his grandmother's bathroom ceiling every six months, but the mold always reappears.

173. NYCHA's failures persist despite a 2014 settlement of a federal class action lawsuit brought by NYCHA residents with asthma, *Baez v. NYCHA*, No. 13 Civ. 8916 (WHP) (S.D.N.Y.). As a term of this settlement, NYCHA committed to taking several steps intended to remediate the mold problem in NYCHA housing, including a promise that NYCHA would remediate mold growth within specified timeframes. NYCHA touted its new mold efforts and claimed to be complying with the new mandated timeframes. But in fact, NYCHA was just using misleading metrics to make it appear that NYCHA was in compliance. Instead of reporting how long it took for NYCHA to remediate a mold problem, NYCHA broke up its remediation efforts into multiple subtasks, and then reported how long it took NYCHA, on average, to complete each subtask. Since each mold remediation effort could require several subtasks, NYCHA's reporting made it appear that NYCHA was fixing residents' mold problems far quicker than it actually was.

174. NYCHA failed to "compl[y] with the Consent Decree from the day it was entered," as the federal judge hearing the case subsequently found. As he put it, "the attitude of NYCHA officials" toward its obligations under the Consent Decree "appear[ed] to be one of indifference."

175. This attitude of indifference is apparent in NYCHA's handling of mold. Residents report that NYCHA often closes mold work orders without ever addressing the mold problem. According to former NYCHA maintenance workers, NYCHA regularly fails to repair broken roof

ventilation fans or turns off roof ventilation fans to save money. And former maintenance workers report that NYCHA staff fail to address leak complaints where the leak is not apparent because, for example, it is no longer raining.

176. NYCHA's top management knows that, despite the *Baez* consent decree, NYCHA is still failing to successfully control its mold and leak problems. NYCHA concedes that mold returns in more than 30% of the apartments where NYCHA has responded to complaints. In late 2015, NYCHA learned that a resident's bathroom ceiling had collapsed after months of persistent leaks. A representative of City Hall asked by email, "How is this kind of thing still happening?" NYCHA's Chair agreed: "Ridiculous."

3. NYCHA Fails to Provide Necessary Heat in Winter

177. Apartment heating is essential in cold New York winters.

178. HUD's "decent, safe, and sanitary" regulations require a public housing agency to provide a heating system that is "functionally adequate, operable, and in good repair," 24 C.F.R. § 5.703(c), (d)(1), and to comply with city building and maintenance codes related to heat, 24 C.F.R. § 5.703(g). New York City long mandated that during winter, when outside temperatures fall below 55° during the day or 40° at night, NYCHA must maintain an indoor temperature of at least 68° during the day and 55° at night. N.Y.C. Admin. Code § 27-2029(a). Since October 2017, the standard has become even stricter overnight, requiring an indoor temperature of 62° at all times, regardless of outdoor temperatures. N.Y.C. Admin. Code § 27-2029(a).

179. NYCHA frequently fails to meet these standards. At most NYCHA developments, the only record of apartment temperatures is created when NYCHA staff visit the apartment: They are required to manually record temperatures for each apartment they visit. Although they mostly fail to do this, these employees have nonetheless recorded tens of thousands of heating violations between Winter 2011-2012 and Winter 2016-2017. In fact, for nearly every day when

outside temperatures fell below 55° during the day, NYCHA employees recorded apartment temperatures below—and often five or ten degrees below—the legal minimum.

180. At a handful of developments, NYCHA has collected more precise data, which confirms these violations. At these developments, NYCHA has installed devices that electronically record temperatures every 15 minutes. The resulting record is clear: Of the approximately 2,800 apartments for which NYCHA provided comprehensive data for the winter of 2015-2016, at least 75% of apartments fell below legal limits at some point in the winter, and on average the apartments with violations fell below the legal limit on at least 21 separate days.

181. Residents called in roughly 825,000 complaints of insufficient heat between 2011 and 2016. In Winter 2015-2016 alone, nearly 43,000 residents called in more than 155,000 complaints of insufficient heat, with 25,000 residents having to call in a lack of heat at least twice.

182. During the frigid weather between December 29, 2017, and January 8, 2018, thirty-two NYCHA developments had recurring heat outages. More than 20,000 work orders for heating repair were generated by NYCHA during that ten-day period, with approximately one in four still unresolved as of January 8. Many thousands of residents were impacted by NYCHA's inability to maintain this basic service when it was needed most.

183. More than 323,000 residents—80% of the entire NYCHA population—suffered heat outages between October 1, 2017, and January 22, 2018, alone. According to NYCHA, the average duration of these outages was 48 hours, a significant increase over the prior year.

184. Lack of heat drives residents to unsafe self-help, including relying on ovens or stoves for heat. For example, residents at 51 Manhattan Ave reported to NYCHA through their attorney that they were “sleeping with their gas ovens on for heat.” Another resident, at the Marlboro Houses, reports that her heat regularly does not turn on, even when the outside

temperature is freezing, and she routinely uses her stove to heat up her apartment. Yet another resident at the Patterson Houses reports that she has many times left her oven on or boiled water for steam to heat her apartment.

185. NYCHA's heat problems persist despite a 2015 lawsuit by New York City's Public Advocate challenging NYCHA's heating policies. NYCHA settled the lawsuit in March 2016, offering some accommodations to the handful of residents who joined the Public Advocate in the suit, and otherwise falsely declaring that NYCHA's "heating policy at all times has complied with applicable law" and that "its procedures and practices for implementing the policy maintain or exceed the minimum temperatures the law requires." As described above, NYCHA's own data show that these statements are false.

186. Given this data, and residents' hundreds of thousands of complaints, NYCHA's top management is aware of NYCHA's persistent heating failures. Moreover, NYCHA's heating department is beset by management and personnel problems. In February 2017, NYCHA reported to this office that its Heating Service and Operation Department had to send disciplinary memos to more than 10% of its heating technicians over the preceding year, and during the same period it had demoted two heating managers and counseled another seven.

4. NYCHA Fails to Provide Functional and Adequate Elevators

187. In NYCHA's tall buildings, functioning elevators are essential; HUD's decent, safe and sanitary regulation requires them to be "functionally adequate, operable, and in good repair." 24 C.F.R. § 5.703(c). But elevators at NYCHA are out of service far too often and far too long.

188. Based on available outage data, NYCHA experienced an average of 94 outages per elevator between 2011 and 2016.⁸ More than one in eight of these outages lasted for more than 10 hours.

189. In 2016, NYCHA elevators experienced an average of more than 13 outages per elevator. Almost 40% of NYCHA residents live in buildings where an elevator was out of service more than 20 times in 2016. The worst 20% of NYCHA elevators had 32 outages on average that year. And the outage times are getting worse: Over 20% of outages in 2016 lasted for more than 10 hours.

190. Often, these outages take out of service the only elevator in the building, or all elevators in a building with multiple elevators. In 2016, nearly 70% of NYCHA buildings with at least one elevator suffered through an outage during which all of the building's elevators were out.

191. Not only are NYCHA's elevators often broken, but these breakdowns frequently occur when residents are *in* the elevators. NYCHA work order data reflect that, in 2016, approximately 1,900 elevator outages involved a passenger who was stuck in the elevator during the outage. It took NYCHA an average of two hours to resolve these situations, suggesting that many NYCHA passengers are stuck in elevators for significant periods of time.

192. NYCHA management is aware of the disruption to residents' lives caused by the failure of its elevators. For example, in 2016, a former resident of Holmes Towers whose family still resides there reached out to senior NYCHA management about "severe elevator issues" in that development. The former resident reported that NYCHA had been "updating" its elevators in

⁸ Because NYCHA's workorder data does not appear to clearly label all preventive maintenance for its elevators, and thus does not reflect all outages due to preventive maintenance, it is likely that the number of outages is even higher.

the building for several months, and the one elevator in service regularly broke down, forcing residents to choose between waiting “for hours in a lobby with no fan or air conditioning” or climbing the stairs.

193. NYCHA’s elevator failures are bad enough for any resident, but they are an extreme hardship for disabled and elderly residents. For example, the president of a residents’ association emailed NYCHA Operations executives and managers in 2013 reporting that a wheelchair-using senior resident at the Melrose Houses “was forced to sleep downstairs in her wheelchair [and] couldn’t get home till Tuesday morning at 5:35 a.m.” This situation resulted from “a double header”—NYCHA’s terminology for having all elevators in a multiple-elevator building down at once.

194. In 2014, the residents’ association president reported the same problem having hit his own family: Copying senior NYCHA management, he wrote: “I think this is horrible that my family had to carry my little brother up 15 floors in a wheelchair” because of another double header.

195. In 2015, a resident at the Carver Houses describes providing a fellow resident with water and a cool rag as they climbed the stairs to the fifteenth floor. Three days later, the elevators were out of service again, leaving three elderly and one disabled resident stranded in the lobby. In an email that reached a senior NYCHA Operations manager, the resident pleads, “[i]s there ever going to be any relief to this situation here once and for all”? When the resident was finally informed that the elevators were restored, she wrote back that “some one higher up should see a bigger issue than just to send out repair men for what will become a TEMPORARY repair” and that “when shortcuts [are] taken [they] become dangerous to innocent people.” She pleaded

that NYCHA investigate the cause of the outages “and solve it once and for all” to ensure the safety of herself and her family. This email, too, made its way to senior NYCHA management.

196. Even when NYCHA tries to upgrade its elevators, it subjects residents to prolonged service outages. For example, in 2017, the sole elevator in a building in the Betances development in the Bronx was taken out of service for a lengthy period of modernization. During that period, a fifth-floor resident of that building, who has difficulty using the stairs, had to call NYCHA each time she needed to leave or come back to her apartment so that NYCHA could provide her with a stair climber to help her up and down the stairs. As a result, this resident was only able to leave her apartment for pre-scheduled medical appointments.

197. NYCHA’s elevator maintenance problems have consequences. In December 2015, an 84-year-old resident of the Boston Road Plaza senior building was killed by a NYCHA elevator malfunction. Due to a breakdown of basic communication, NYCHA senior management did not even learn of the incident and investigate it until four days after it had occurred. A New York City Department of Investigation Report found that the death resulted from, among other things, poor maintenance and a failure to respond adequately to a resident’s report of the problem.

198. Despite significant public pressure on these issues, including a September 2012 settlement of a lawsuit (*Brito v. NYCHA*, No. 09 Civ. 1621) in which NYCHA agreed to institute a series of changes designed to improve elevator maintenance and performance, NYCHA has not corrected its failure to provide reliable and safe elevator service to its tenants.

5. NYCHA Fails to Address Rats, Mice, and Other Vermin

199. NYCHA has been unable to prevent “infestation by rats, mice, or other vermin.” 24 C.F.R. § 5.703(f).

200. According to NYCHA’s work order data, NYCHA residents reported more than 280,000 roach complaints from 2010-2016, more than 130,000 mouse complaints, and nearly

15,000 rat complaints. An average of more than 19,000 apartments reported roach problems every year, and an average of nearly 10,000 reported mice. NYCHA residents in more than 1,900 buildings complained about rat problems in that same period.

201. The problem at NYCHA is significantly worse than normal pest problems present in other rental housing in New York City. According to the Census Department's 2014 Housing and Vacancy Survey, residents in 14% of NYCHA units reported seeing 20 or more cockroaches a day. That is more than three times the percentage for all renter-occupied New York City housing. The same study showed that more than a quarter of NYCHA units reported a rodent infestation in their building.

202. The problem is getting worse. NYCHA's internal data shows that resident roach complaints more than doubled between 2010 and 2016. NYCHA's work order data also indicates that the number of apartments reporting mice and rat complaints have been increasing since 2013.

203. Pests harm residents' health. Roach saliva and droppings exacerbate asthma; as described above, asthma is widespread at NYCHA. Mice and rats directly transmit diseases, and their droppings can contaminate food and water supplies.

204. NYCHA's pest problems stem from poor sanitation and waste management (providing food for the pests); widespread leaks (providing water); and a failure to address holes in apartment walls (providing access and safe havens). NYC DOH has brought these issues to NYCHA's attention. For example, in March 2016, NYC DOH notified NYCHA of "very active rat conditions" its inspector found at the Wise Towers in Manhattan. The NYC DOH inspector reported finding "rubbish," "debris," and "[m]any bags of garbage" contributing to a rat problem evidenced by "rat droppings" and at least 29 "rat burrows" on the property.

205. Modern pest management methods, known as “Integrated Pest Management” (or “IPM”), take these causes into account. As a study co-authored by a NYCHA executive put it, IPM is “an approach that primarily involves improving sanitary and structural conditions to deny pests food, water, harborage, and movement.” These techniques have been shown to reduce pests, including in a major study performed in NYCHA buildings. Yet NYCHA fails to apply IPM in a meaningful way. Instead, trash is widespread; leaks are common; and holes in walls are frequently unaddressed.

206. In an April 2015 e-mail, a NYC DOH inspector explained the consequences of NYCHA’s failure to use pest management methods like IPM. On one of his field visits to a NYCHA development, the inspector found “newly installed cabinets” that “quickly became a beautiful rat condo” because the installation “left gaps and harborage for roaches.” As the inspector noted, the installation of the cabinets “was not preceded by a pest management visit” to address the roach infestation in the apartment, therefore “[t]he existing roach population had no trouble moving in.”

207. When extermination is required, NYCHA also often fails. According to one former NYCHA employee who worked in NYCHA’s extermination services group and ultimately ran that group, NYCHA’s exterminators work in an environment of “chaos”: At times, they lack the appropriate pesticides to do their work because NYCHA fails to pay its suppliers and adequately stock necessary supplies; they fail to follow a systematic and efficient procedure for scheduling extermination appointments; and they are asked by senior management to deviate from set policies and procedures.

208. For many developments, the presence of pests morphs into full-blown infestations. In 2016, the basement of the Patterson Houses was discovered to have a labyrinth of rat burrows

and dozens of rats beneath it. Unfortunately, these issues are not confined to basements and public spaces. A 2012 work order described the residents of an apartment in the Randolph Houses as “overcome by rats.” Another work order from 2016 included a quote from a resident in the Marcy Houses: “Too many mice. They climb on my baby crib and I have an asthmatic child and it affects him.”

209. Moreover, around 2012, NYCHA abandoned routine extermination services. Once the routine exterminations stopped, only tenants who called to complain about pest issues were provided with extermination services; however, tenants were never informed that the routine exterminations had been stopped and that they needed to call and complain to get extermination services. Pest infestations “exploded” as a result. Despite the frequency of infestations, routine exterminations were not resumed until at least 2016.

210. Another former NYCHA exterminator, described a culture where exterminators were directed to “fake it.” This meant that exterminators would sometimes spray water instead of pesticides when the necessary pesticides were in short supply. Exterminators would also close out work orders as “tenant not home” without confirming that was the case when they were given too many orders in one day. These practices were known, sanctioned, and encouraged by the exterminator’s supervisor.

211. In the absence of reasonable pest management by NYCHA, residents are often forced to resort to pesticides and insecticides that they purchase on their own. For example, a 2016 work order from a resident in Marlboro Houses reflects that the resident was buying “poison” to address bedbugs and roaches and repeatedly sprayed the ventilation units himself. When residents are forced to purchase and use their own pesticides, there is a significant risk that

these potentially dangerous chemicals will not be used properly or that illegal pesticides will be used.

212. The core of the problem lies with the failure of NYCHA's management. For example, in 2015, the Manhattan Borough President accurately summarized the rat problem at a press conference, saying that NYCHA "has no idea how to handle rats." In a subsequent email between NYC DOH and City Hall, the NYC DOH Commissioner explained that the Borough President "may be right." She emphasized that NYCHA has "challenges in waste management," and that "it is not easy to get [NYCHA's] 'rat reservoirs' under control."

213. Indeed, NYCHA senior management know that NYCHA residents live with pests as a part of their daily life, those officials and managers often fail to take action, except in response to public criticism. One apartment in particular caught the eye of senior NYCHA management after an inquiry by the Mayor's office and a State Senator's office due to a rodent infestation in the apartment. The resident had requested a transfer to another apartment, which was rejected by NYCHA. A few weeks later, during an apartment inspection, the resident's son showed the inspector a video of a rat in the apartment's bathtub, despite previous efforts at extermination. The issue was ultimately elevated to a senior NYCHA executive, among others, because of prior "significant media coverage."

214. Similarly, in February 2016, a senior NYCHA executive was made aware by email of a resident who had been living with a water bug infestation for two years. The resident had "put in tickets just to have them route to another trade just to be told that they don't plaster pipes." The resident was reportedly forced to "discard furniture[,] food[,] and clothing because these water bugs are nesting in everything." In response, the NYCHA executive forwarded the email to senior Operations executives, noting her concern that "Greg got the same email"—presumably

Greg Smith, a New York Daily News reporter—before asking for an investigation into the complaint.

**NYCHA MADE FALSE STATEMENTS TO HUD AND THE PUBLIC TO AVOID
SCRUTINY OF MAINTENANCE WORK ORDER BACKLOGS**

215. NYCHA also misled HUD and the public about its efforts to reduce its massive work order backlog.

216. From 2010 through 2012, NYCHA faced sharp public criticism for its failure to perform needed repairs in residents' apartments. Newspapers published articles describing “[i]nterminable delays for repairs,” which had “become the rule for NYCHA’s 400,000 residents,” as the result of a “backlog of . . . repairs [that] is staggering.”⁹ One article recounted the story of a “gaping hole in [a] 7-year-old[']s . . . bedroom wall,” which NYCHA created in May 2010 to address a leak but then left open while it attempted to schedule an appointment for a plasterer to close the hole. Because of NYCHA’s “three-year backlog,” the first available date for a plasterer was fifteen months later, in August 2011.¹⁰ In the meantime, the child’s mother “worrie[d] every night about the stench of mold coming from the hole . . . [and] the danger of rats getting in”¹¹

⁹ Juan Gonzalez, *Gonzalez: NYCHA’s new fix system is years behind*, N.Y. DAILY NEWS, July 23, 2010; Langnee Barron & Jake Pearson, *Tenants hammered by overdue city repairs*, N.Y. DAILY NEWS, June 20, 2011; *see also, e.g.*, Larry McShane, *Letter to Mayor Bloomberg last year warned of NYCHA’s failures*, N.Y. DAILY NEWS, Aug. 2, 2012; Editorial Board, *Mike’s blind spot*, N.Y. DAILY NEWS, Aug. 3, 2012; Greg B. Smith, *Fix it? Sure, by 2014*, N.Y. DAILY NEWS, Aug. 17, 2012; Greg B. Smith, *Two reports expose NYCHA dysfunction*, N.Y. DAILY NEWS, Aug. 17, 2012.

¹⁰ Juan Gonzalez, *Gonzalez: NYCHA’s new fix system is years behind*, N.Y. DAILY NEWS, July 23, 2010.

¹¹ *Id.*

217. NYCHA's work order backlog—roughly 400,000 work orders on its books at the end of each year—was identified in the press as a cause of these living conditions. Reporting on NYCHA's "staggering volume of open requests for repairs," the press described "housing developments [that] are overrun by rodents," "mold-riddled apartments" that caused NYCHA's children to suffer asthma at "nearly three times [the rate of children] in private family houses," and elevators that were inoperable "[e]very other day."¹²

218. Public criticism intensified in the summer of 2012. On August 1, 2012, the cover of the *New York Daily News* read "SACK THEM ALL," below photographs of NYCHA's then-Chair and three other board members.¹³ Politicians, including the New York City Council Speaker and a Congresswoman, joined the fray, calling for NYCHA to release a report it had commissioned that found a backlog of hundreds of thousands of work orders.¹⁴

219. HUD, too, began pressuring NYCHA, insisting that NYCHA come up with a plan to address these problems.

220. In the face of this public and regulatory pressure, NYCHA promised HUD and the public that it would make efficiency and productivity improvements to eliminate the backlog, and ultimately claimed to have done so. Instead, a significant portion of NYCHA's backlog reduction involved simply moving needed work off the books—principally by unlawfully suspending all

¹² Greg B. Smith, *Two reports expose NYCHA dysfunction*, N.Y. DAILY NEWS, Aug. 17, 2012.

¹³ Editorial Board, *NYCHA's entire board of John Rhea, Emily Youssouf, Margarita Lopez and Victor Gonzalez must go*, N.Y. DAILY NEWS, Aug. 1, 2012; Larry McShane & Greg B. Smith, *NYCHA board sitting on nearly \$1B in fed cash*, N.Y. DAILY NEWS, Aug. 1, 2012. (Cover image available at <http://www.nydailynews.com/blogs/dailypolitics/bloomberg-hide-nycha-report-blog-entry-1.1691861>.)

¹⁴ Tina Moore & Greg B. Smith, *Make \$10 Million report on NYCHA public, Council Speaker Christine Quinn says*, N.Y. DAILY NEWS, Aug. 14, 2012; Celeste Katz, *Document Drop Plus: The NYCHA Report, The Daily News Investigation, And The Fallout*, N.Y. DAILY NEWS, Aug. 16, 2012.

annual apartment inspections for two years—and finding other ways to manipulate its work order numbers.

A. NYCHA Indefinitely Suspended Annual Inspections to Avoid Generating New Work Orders

221. Annual apartment inspections, by design, generate new work orders for repairs that the inspectors identify as necessary. At NYCHA, approximately 170,000 work orders had been generated by annual inspections in 2011. As of August 2012, NYCHA was on pace to generate even more work orders through inspections in 2012.

222. To artificially reduce backlog numbers, in late August 2012 NYCHA executives indefinitely suspended all annual apartment inspections. NYCHA specifically intended the suspension of inspections to avoid the creation of large numbers of new work orders, as well as to free up personnel to work on backlog reduction projects. As a top NYCHA executive acknowledged when this suspension of inspections was disclosed to HUD in 2016, the reason for the suspension was “putting too much focus on work order numbers.”

223. This indefinite suspension of inspections was unlawful. The U.S. Housing Act requires that all public housing agencies “make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with” the requirement that apartments be decent, safe, sanitary and in good repair. 42 U.S.C. § 1437d(f)(3); *see also* 24 C.F.R. § 5.703. This statutory requirement allows housing agencies some flexibility on *how* to implement apartment inspections—for example, they may choose to inspect a representative sample rather than every unit. But it does not allow housing agencies simply to suspend all annual apartment inspections.

224. HUD had issued guidance and reviewed these requirements with NYCHA just months prior to NYCHA’s suspension of inspections, and—well aware of the requirements—one

NYCHA executive voiced concerns to others at NYCHA about the proposal to suspend annual inspections. He advised NYCHA officials that any suspension longer than a few months would violate HUD's requirements.

225. The suspension of annual inspections in fact lasted two years, until the summer of 2014. As time passed, the NYCHA executive reiterated to higher NYCHA management his concern that NYCHA was in violation of the annual inspection requirement. He was ignored.

226. Through this decision to suspend annual inspections, between August 2012 and the end of December 2013—when NYCHA declared that its backlog reduction efforts had been successful—NYCHA in fact moved an estimated 200,000 work orders off its books based on its prior rate of generating work orders from inspections. It did not disclose this fact to HUD or the public.

227. Suspending inspections did not eliminate the need for the work that the inspections would have found. Rather, it just allowed NYCHA to avoid documenting needed work in its work order system—until some later date when a resident complained about conditions or inspections resumed. During that time, problems would get worse, become more costly to fix, or (as in the case of leaks and pests) spread into additional apartments.

228. When NYCHA resumed apartment inspections in 2014, its backlog promptly began to rise again.

B. October 2012 and March 2013: NYCHA Misled HUD at Backlog Meetings

229. In 2012, the then-Secretary of HUD directed NYCHA's senior executives to travel to Washington to explain NYCHA's efforts to solve the backlog problem. At the resulting meetings, NYCHA misled HUD as to its plans.

230. On October 18, 2012, NYCHA presented its backlog reduction plan to HUD. NYCHA walked through its backlog reduction plan, showing slides setting out how NYCHA

planned to eliminate its backlog through “Productivity Improvement.” NYCHA listed six areas in which it would improve its capacity to complete work or increase its efficiency: materials, planning and scheduling, process improvements, staffing, communication, and performance management. All of the “Productivity Improvement Drivers” listed involved increasing NYCHA’s capacity to complete work or the efficiency with which it did so. At no point did NYCHA advise HUD that NYCHA had indefinitely suspended apartment inspections, let alone that NYCHA had done so expressly to reduce the backlog by keeping needed work off the books or that this would be a major driver of its backlog reduction.

231. In February 2013, NYCHA met with HUD’s regional office to discuss its recently announced Work Order Backlog Reduction Initiative. NYCHA described this Initiative in a press release as intended to “eliminat[e] the entire backlog of outstanding repair requests by the end of 2013” “[b]y [h]iring [m]ore [w]orkers and [i]mproving [e]fficiencies.” During its meeting with HUD, NYCHA explained that the Initiative was the same plan that NYCHA presented to HUD in October 2012. Again, NYCHA did not disclose the suspension of annual inspections.

232. In March 2013, during a telephonic meeting with HUD during which NYCHA touted its progress in reducing its backlog, NYCHA again failed to disclose the suspension of inspections.

C. NYCHA Changed its Rules to Close Work Orders Without Work

233. Beyond suspending apartment inspections, in February 2013 NYCHA restored a prior policy that allowed NYCHA staff to close work orders by reporting that the resident was not home when the worker arrived to perform the maintenance work. This action was taken on the recommendation of a NYCHA executive who explained in an email that the change was being made specifically to reduce backlog numbers.

234. This change allowed NYCHA to close nearly 200,000 work orders in 2013 because staff reported that the resident was not home. If not for the new policy, those work orders would have remained in NYCHA's system until NYCHA actually addressed the underlying problems, resulting in backlog numbers higher than those reported by NYCHA.

235. NYCHA did not disclose this change in methodology to HUD when claiming success in backlog reduction.

D. NYCHA Claimed to Have Achieved Meaningful Backlog Reduction

236. Each month from March 2013 through November 2013, NYCHA issued press releases trumpeting its backlog reduction efforts and claiming that these efforts resulted from efficiency improvements at NYCHA. For instance, in its first release, on March 11, 2013, NYCHA reported that it had "reduced the number of open work orders from a peak of over 420,000 to less than 350,000" and claimed that this "reduction is a result of NYCHA's Action Plan to improve its efficiency in responding to maintenance and repair work orders."

237. Similarly, throughout 2013, NYCHA's senior management met with HUD to discuss its backlog reduction plans and progress, and provided HUD updates. Through these updates, NYCHA reported to HUD the monthly reductions in its backlog numbers. In these meetings, NYCHA did not disclose its efforts to artificially reduce its backlog numbers.

238. On January 2, 2014, after years of criticism from the public and HUD, NYCHA announced that it had "successfully reduced its backlog" from 423,000 open maintenance work orders to only 106,000 work orders. NYCHA claimed that this reduction "has positively impacted the conditions in which our residents live."

239. NYCHA also made statements to HUD in its 2014 and 2015 Annual Plans, linking its backlog reduction to efficiency improvements.

240. In none of these statements did NYCHA disclose the suspension of inspections that had led to a significant portion of the claimed reduction, nor did it disclose the other devices it used to make its numbers artificially look better than they were.

NYCHA MADE FALSE STATEMENTS ABOUT LEAD PAINT COMPLIANCE AND HOUSING CONDITIONS IN CERTIFICATIONS, CONTRACT AMENDMENTS, AND FUNDING DRAWDOWNS

241. NYCHA made false statements to HUD multiple times each year when it falsely certified its compliance with HUD requirements.

A. False Certifications

242. At least twelve times between 2010 and 2016, NYCHA submitted false certifications to HUD concerning housing conditions.

243. Each certification was submitted as a mandatory part of a Five-Year Plan or Annual Plan package, which in turn are required submissions for all public housing agencies seeking HUD funding, or as part of an Amended Annual Plan package. *See* 42 U.S.C. § 1437c-1; 24 C.F.R. Part 903, Subpart B.

244. These false certifications, contained in Form HUD-50077, include certifications dated October 14, 2010; October 14, 2011; October 15, 2012; October 11, 2013; July 24, 2014; October 16, 2014; and May 1, 2015; October 12, 2015 (two certifications); May 13, 2016; and October 12, 2016.

245. Each of these certifications was false for multiple reasons.

246. *First*, in each Form HUD-50077, NYCHA certified that NYCHA “will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 C.F.R. part 35”—that is, HUD’s lead paint safety regulations.

247. This statement was false. As described above, at all times since at least 2010, NYCHA has been out of compliance with nearly all of these regulations and statutes, and would not be in compliance going forward.

248. That NYCHA was out of compliance with lead paint regulations was known to senior NYCHA management at the relevant times, as detailed above.

249. *Second*, in each Form HUD-50077, NYCHA certified that NYCHA “is in compliance with all applicable Federal statutory and regulatory requirements.” This incorporates HUD’s core “decent, safe, and sanitary” regulation. 24 C.F.R. § 5.703.

250. This statement was false. As described above, at all times since at least 2010, NYCHA has been in violation of its obligation to provide “decent, safe, and sanitary” housing, including because of non-compliance with lead paint requirements; pervasive leaks and unchecked mold; inadequate heat in winter; widespread pest infestations; and failed elevator service. 24 C.F.R. § 5.703.

251. This non-compliance was known to senior NYCHA management, who also knew that the non-compliance was being covered up through, among other things, misrepresentations relating to NYCHA’s maintenance backlog reduction and PHAS inspections.

252. *Third*, two of the certifications, dated October 11, 2013, and July 24, 2014, are false for the additional reason that NYCHA had stopped performing the annual inspections of its developments required by the U.S. Housing Act. 42 U.S.C. § 1437d(f)(3). As discussed above, NYCHA intentionally suspended compliance with this statutory requirement in order to generate artificial reductions in its maintenance work order backlog.

B. False Annual Amendments to the Annual Contributions Contract

253. Each year, in order to obtain funding from HUD’s Capital Fund Program, NYCHA enters into an amendment to its “Annual Contributions Contract” with HUD.

254. The Annual Contributions Contract, or ACC, is a contract between NYCHA and the United States, acting on behalf of HUD. The current version of NYCHA's ACC was entered into on April 12, 2005. In the ACC, in exchange for HUD subsidies, NYCHA agrees to "develop and operate" its developments in compliance with all provisions of the ACC, as well as "all applicable statutes, executive orders, and regulations issued by HUD," specifically including the provisions of Title 24 of the Code of Federal Regulations.

255. NYCHA regularly enters into amendments to its ACC to obtain Capital Fund Program grants. These amendments are a critical step in requesting and receiving such grants.

256. Between July 2010 and March 2016, NYCHA entered into approximately twenty such amendments to the ACC. Pursuant to these amendments, over \$2 billion in Capital Fund Program grants were paid to NYCHA. NYCHA continued to enter into such amendments after March 2016, and will do so in the future.

257. In each amendment, NYCHA represents that it will "continue to operate each development"—or in some of the amendments, synonymously, "continue to operate each public housing project"—as low-income housing "in compliance with" the ACC. The ACC requires compliance with regulations, including Title 24 of the Code of Federal Regulations. This, in turn, incorporates HUD's lead paint safety regulations and core "decent, safe, and sanitary" regulations. 24 C.F.R. § 5.703.

258. In each amendment, NYCHA's representation is false. As described above, at all times since at least 2010, NYCHA has been in violation of the lead paint safety regulations and its obligation to provide "decent, safe, and sanitary" housing. Additionally, the ACC amendments between about August 2012 and summer of 2014 were false because NYCHA had stopped

performing the annual inspections of its developments as required by the U.S. Housing Act. 42 U.S.C. § 1437d(f)(3).

259. As discussed above, NYCHA senior management, and others, knew about NYCHA's non-compliance.

C. False Representations Through Drawdown of Operating Funds

260. HUD issues periodic Obligation Letters to NYCHA, which notify NYCHA that it can draw down the Operating Fund subsidies HUD has made available to NYCHA for that funding period.

261. Each Obligation Letter states that “[a]ll funds must be used in accordance with the Annual Contributions Contract and associated laws and regulations,” which, as described above, includes Title 24 of the Code of Federal Regulations. Each letter also notifies NYCHA that “[b]y drawing down the funds obligated in this letter, [NYCHA is] confirming agreement and compliance with . . . all terms and conditions of the Operating Fund program,” which includes, but is not limited to, the requirements of the U.S. Housing Act and the ACC.

262. Each year, HUD issues multiple such Obligation Letters to NYCHA, pursuant to which NYCHA draws down Operating Fund subsidies. In 2016 alone, HUD issued to NYCHA nine Obligation Letters that obligated to NYCHA over \$7.3 million in funds. NYCHA will continue to draw down funds pursuant to such Operating Fund Obligation letters in the future.

263. Each time NYCHA drew down Operating Funds pursuant to these Obligation Letters, NYCHA falsely confirmed its compliance with the ACC and the U.S. Housing Act. As described above, at all times since at least 2010, NYCHA has been in violation of the lead paint safety regulations and its obligation to provide “decent, safe, and sanitary” housing. Additionally, NYCHA's confirmations of compliance when it drew down funds between about August 2012

and summer of 2014 were false because NYCHA had stopped performing the annual inspections of its developments as required by the U.S. Housing Act. 42 U.S.C. § 1437d(f)(3).

264. As discussed above, NYCHA senior management and others knew about NYCHA's non-compliance.

**NYCHA CAUSED NEW YORK CITY TO MAKE FALSE STATEMENTS
ABOUT LEAD PAINT COMPLIANCE IN ITS ANNUAL
"CONSOLIDATED PLANS" SUBMITTED TO HUD**

265. Every year, New York City must submit a "Consolidated Plan" to HUD. The Consolidated Plan "serves as [New York City's] comprehensive housing affordability strategy, community development plan, and submissions for funding" under certain HUD grant programs. 24 C.F.R. § 91.5.

266. Every year from at least 2011 through 2016, NYCHA has submitted the following false statement to New York City, which New York City then incorporated into its Consolidated Plan and submitted it to HUD:

NYCHA complies with Federal, State, and City regulations concerning lead paint hazards and executes HUD directives regarding lead-based paint (LBP). NYCHA identifies hazards posed by paint, dust and soil, and implements programs designed to control or mitigate such hazards safely and efficiently.

267. These statements were submitted to New York City by or at the direction of NYCHA officials, who knew at the time of their submission that the statements were untrue.

CLAIM FOR RELIEF

COUNT ONE: SUBSTANTIAL DEFAULT

268. The United States repeats and realleges the allegations in paragraphs 1 through 267.

269. As described above, NYCHA has violated HUD regulations including the Lead-Safe Housing Rule, 24 C.F.R. Part 35, Subparts (B-R), and its obligation to provide "decent, safe,

and sanitary” housing, 24 C.F.R. § 5.703; has engaged in deceptive conduct with respect to PHAS inspections; and has violated applicable terms of NYCHA’s Annual Contributions Contract.

270. These violations of federal law and the Annual Contributions Contract constitute a substantial default by NYCHA with respect to the covenants or conditions to which NYCHA is subject. *See* 42 U.S.C. § 1437d(j)(3)(A).

271. Accordingly, the United States is entitled to an order providing for injunctive relief and appointment of a monitor under 42 U.S.C. § 1437d(j)(3), to remedy NYCHA’s substantial default with respect to covenants or conditions to which NYCHA is subject.

COUNT TWO: ANTI-FRAUD INJUNCTION ACT

272. The United States repeats and realleges the allegations in paragraphs 1 through 271.

273. The Anti-Fraud Injunction Act, 18 U.S.C. § 1345, authorizes the United States to commence a civil action to enjoin any ongoing or impending violation of certain specified predicate offenses and for related relief. These predicate offenses include 18 U.S.C. § 1001. *See* 18 U.S.C. § 1345(a)(1)(A).

274. NYCHA has unlawfully, willfully, knowingly, or acting with deliberate ignorance and/or with reckless disregard of the truth, in matters within the jurisdiction of HUD, falsified, concealed, or covered up by tricks, schemes, and devices a material fact; made materially false, fictitious, or fraudulent statements and representations; and made and used false writings or documents knowing the same to contain materially false, fictitious, or fraudulent statements or entries, in violation of 18 U.S.C. § 1001. Specifically, from at least 2010, NYCHA has unlawfully, willfully, knowingly, or acting with deliberate ignorance and/or with reckless disregard of the truth, (i) repeatedly made false statements (including through material omissions) to HUD regarding conditions at NYCHA and NYCHA’s compliance with the U.S. Housing Act

and HUD regulations, (ii) repeatedly concealed and covered up conditions and NYCHA's noncompliance with the U.S. Housing Act and HUD regulations, and (iii) repeatedly made and used knowingly false writings and documents to deceive HUD regarding conditions at NYCHA and NYCHA's noncompliance with the U.S. Housing Act and HUD regulations.

275. Without injunctive relief, NYCHA's deceptive conduct and its ongoing effects will continue.

276. Accordingly, the United States is entitled to an order providing for injunctive relief and appointment of a monitor under 18 U.S.C. § 1345, to prevent NYCHA, its employees, and all those in concert with them from committing further violations of 18 U.S.C. § 1001 and to require NYCHA to mitigate the effects of prior violations.

COUNT THREE: VIOLATIONS OF TSCA AND THE RRP RULE

277. The United States on behalf of EPA repeats and realleges the allegations in paragraphs 1 through 276.

278. NYCHA is a "firm" that performs "renovations" within the meaning of the RRP Rule.

279. NYCHA has failed to comply with the requirements of the RRP Rule in performing such renovations, including but not limited to failing to ensure that a certified renovator is assigned to each such renovation and that its employees other than certified renovators are properly trained on safe work practices, in violation of 40 C.F.R. §§ 745.81(a)(3), 745.89(d)(1), and 745.89(d)(2); failing to follow safe work-practice requirements before, during, after the renovation, in violation of 40 C.F.R. §§ 745.85 and 745.89(d)(3); and failing to provide residents with required information and warnings, in violation of 40 C.F.R. §§ 745.84(a), 745.85(a)(1), 745.89(d)(3), and 745.89(d)(4).

280. Violations of the RRP Rule are "prohibited acts" under TSCA. 15 U.S.C. § 2689.

281. Without injunctive relief, NYCHA will continue to fail to comply with the RRP Rule and TSCA when performing work covered by the Rule.

282. Accordingly, pursuant to sections 17 and 409 of TSCA, 15 U.S.C. §§ 2616 and 2689, the United States is entitled to an order enjoining NYCHA to comply with the RRP Rule and TSCA, and mitigate the effects of past violations.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that the Court:

- (i) Order injunctive relief and appointment of a monitor under 42 U.S.C. § 1437d(j)(3), to remedy NYCHA's substantial default with respect to covenants or conditions to which NYCHA is subject;
- (ii) Order injunctive relief and appointment of a monitor under 18 U.S.C. § 1345, to prevent NYCHA, its employees, and all those in concert with them from committing further violations of 18 U.S.C. § 1001 and to require NYCHA to mitigate the effects of prior violations.
- (iii) Order NYCHA to comply with the RRP Rule and TSCA, and to mitigate the effects of past violations; and
- (iv) Order such further relief as the Court may deem just and proper.

Dated: June 11, 2018
New York, New York

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Attorney for the United States

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EXHIBIT A

Developments Identified by NYCHA as Containing Lead Paint

131 SAINT NICHOLAS AVENUE

344 EAST 28TH STREET

830 AMSTERDAM AVENUE

ALBANY

ALBANY II

AMSTERDAM

ASTORIA

BARUCH

BLAND

BREUKELEN

BREVOORT

BRONX RIVER

CASTLE HILL

CLAREMONT REHAB (GROUP 4)

CLASON POINT GARDENS

COOPER PARK

DYCKMAN

EAST RIVER

EASTCHESTER GARDENS

ELLIOTT

FHA REPOSSESSED HOUSES (GROUP I)

FHA REPOSSESSED HOUSES (GROUP II)

FHA REPOSSESSED HOUSES (GROUP III)

FHA REPOSSESSED HOUSES (GROUP IV)

FHA REPOSSESSED HOUSES (GROUP IX)

FHA REPOSSESSED HOUSES (GROUP V)

FHA REPOSSESSED HOUSES (GROUP VI)
FHA REPOSSESSED HOUSES (GROUP VII)
FHA REPOSSESSED HOUSES (GROUP VIII)
FHA REPOSSESSED HOUSES (GROUP X)
FIRST HOUSES
GLENMORE PLAZA
GLENWOOD
GRANT
GRAVESEND
GUN HILL
HAMMEL
HARLEM RIVER
HARLEM RIVER II
HIGHBRIDGE GARDENS
INDEPENDENCE
JOHNSON
KINGSBOROUGH
LEXINGTON
LINCOLN
LONG ISLAND BAPTIST HOUSES
MANHATTANVILLE
MANHATTANVILLE REHAB (GROUP 2)
MARBLE HILL
MARINER'S HARBOR
MARLBORO
MILL BROOK
MILL BROOK EXTENSION
MITCHEL
MONROE

NOSTRAND
PARKSIDE
PELHAM PARKWAY
POLO GROUNDS TOWERS
POMONOK
QUEENSBRIDGE NORTH
RANGEL
RAVENSWOOD
RED HOOK EAST
RED HOOK WEST
REHAB PROGRAM (DOUGLASS REHABS)
RICHMOND TERRACE
RIIS
RIIS II
SAINT NICHOLAS
SEDGWICK
SEWARD PARK EXTENSION
SMITH
SOUNDVIEW
SOUTH BEACH
SOUTH JAMAICA II
STAPLETON
STRAUS
SUMNER
SURFSIDE GARDENS
THROGGS NECK
TODT HILL
UNITY PLAZA (SITES 4-27)
VAN DYKE I

WALD

WEBSTER

WEEKSVILLE GARDENS

WILLIAMSBURG

WILSON

WISE TOWERS

WOODSIDE

WSUR (SITE A) 120 WEST 94TH STREET

EXHIBIT B

**Developments for Which Required
EIBLL Triggered Risk Assessment Was Not Performed**

EDENWALD
FORT INDEPENDENCE STREET-HEATH AVENUE
MARCY
MELROSE

APPENDIX 2

AGREEMENT

This Agreement is entered into this 31st day of January 2019, by and between the U.S. Department of Housing and Urban Development (“HUD”), the New York City Housing Authority (“NYCHA”), and New York City (“the City”).

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I. Recitals

1. WHEREAS, under the United States Housing Act of 1937, as amended, 42 U.S.C. § 1437 *et seq.*, HUD is responsible for administering low income housing programs;
2. WHEREAS, NYCHA is a Public Housing Agency that receives federal financial assistance from HUD to administer its public housing program;
3. WHEREAS, NYCHA, in accordance with the Annual Contributions Contract and related regulations related to the grant effected pursuant to the Annual Contributions Contract, is required to, among other things, provide decent, safe, and sanitary housing for the public housing residents of New York City and comply with federal law protecting children from the hazards of lead poisoning;
4. WHEREAS, on June 11, 2018, the United States filed a complaint in the United States District Court for the Southern District of New York (the “Complaint”). The Complaint set forth the findings of the United States’ investigation, alleging, among other things, that NYCHA had routinely failed to comply with lead-based paint safety regulations; had failed to provide decent, safe, and sanitary housing, including with respect to the provision of heat and elevators and the control and treatment of mold and pests; and had repeatedly misled HUD through false statements and deceptive practices;
5. WHEREAS, in a Consent Decree executed June 11, 2018, NYCHA made admissions regarding, among other things, deficiencies in physical conditions with respect to lead, mold, heating, elevators and pests, untrue statements to HUD regarding the conditions of NYCHA properties, and practices with regard to Public Housing Assessment System inspections;
6. WHEREAS, based on NYCHA’s misconduct as detailed in the Complaint, on January 31, 2019, the Secretary of HUD (the “Secretary”) declared that NYCHA is in substantial default within the meaning of Section 6(j)(3)(A) of the U.S. Housing Act. *See* 42 U.S.C. § 1437d(j)(3)(A);
7. WHEREAS, HUD is not taking possession of NYCHA or appointing a receiver at this time. Rather, HUD has determined that the terms of this Agreement constitute an “arrangement[] acceptable to the Secretary and in the best interests of the public housing residents . . . for managing all, or part, of the public housing administered by the agency or of the programs of the agency” within the meaning of 42 U.S.C. § 1437d(j)(3)(A)(v);
8. WHEREAS, the purpose of this voluntary Agreement is to remedy the deficient physical conditions in NYCHA properties, ensure that NYCHA complies with its obligations under federal law, reform the management structure of NYCHA, and

facilitate cooperation and coordination between HUD, NYCHA, and the City during the term of this Agreement; and

9. WHEREAS, the City agrees to provide the funding as set forth in Section VI.
10. WHEREAS, except as provided in this Agreement, NYCHA shall maintain control of its operations and shall be responsible for implementing the action plans described in this Agreement and meeting the physical conditions standards set forth in Exhibit A and Exhibit B;
11. WHEREAS, the United States Attorney's Office for the Southern District of New York ("SDNY") will, within 14 days of the appointment of the Monitor, file appropriate papers with the U.S. District Court to obtain dismissal, without prejudice, of the Complaint;
12. NOW, THEREFORE, HUD, NYCHA, and the City, in consideration for their mutual promises, agree to be legally bound, as follows:

II. Definitions

13. Whenever the terms set forth below are used in this Agreement, the following definitions shall apply:
 - a. "Action Plan" shall have the meaning provided in paragraph 35.
 - b. "Agreement" means this Agreement.
 - c. "Board" means the board of NYCHA, including all of its members.
 - d. "Chair" or "NYCHA Chair" means the chairperson of NYCHA.
 - e. "Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.
 - f. "Effective Date" has the meaning provided in Section XII.
 - g. "EPA" means the U.S. Environmental Protection Agency.
 - h. "Housing Act" or "Act" means the U.S. Housing Act of 1937, set forth at 42 U.S.C. § 1437d.
 - i. "HUD" means the U.S. Department of Housing and Urban Development.
 - j. "Monitor" means the individual serving as Monitor pursuant to Section III of this Agreement, as well as his or her consultants,

staff, or designees, except where expressly provided otherwise in this Agreement.

- k. "Paragraph" shall mean a portion of this Agreement identified by an Arabic numeral, including subparts thereto.
- l. "Party" means HUD and NYCHA and, with respect to its commitments under this Agreement, the City.
- m. "Quarter" means each three-month period ending March 31, June 30, September 30, and December 31 of each calendar year.
- n. "Quarterly Report" means the reports described in paragraphs 25 to 26 of this Agreement.
- o. "Secretary" shall mean the Secretary of the U.S. Department of Housing and Urban Development or his or her designee, who shall be the Deputy Secretary, the Assistant Secretary of the Office of Public and Indian Housing, or a Deputy Assistant Secretary in the Office of Public and Indian Housing.
- p. "Section" shall mean a portion of this Agreement identified by a roman numeral.
- q. "Work Plan" shall mean the set of compliance requirements, standards, and deadlines contained in the document set forth herein as Exhibit A and Exhibit B.

III. Applicability

- 14. The obligations of this agreement apply to apartment units, common areas, residential buildings, and building sites consisting of public housing owned or operated by NYCHA and receiving funding through Section 9 of the Housing Act.
- 15. If, due to a conversion program an apartment unit, common area, residential building, or building site is no longer operated by NYCHA and receiving funds through Section 9 of the Housing Act, then the obligations of this agreement shall no longer apply as to those conversions as of the closing of the applicable transaction, except that, with regard to transactions closed more than six months after the Effective Date, NYCHA shall ensure that, during the construction period, the project developer abates lead-based paint in compliance with the lead abatement standards of 24 C.F.R. § 35.930(d), regardless of the dollar value of rehabilitation. Following abatement, NYCHA shall provide to the Monitor a clearance report pursuant to 24 C.F.R. § 35.1340(c).

IV. Monitorship

A. Selection and Costs

16. After consultation with NYCHA and the City, HUD and SDNY shall require the City to appoint an individual selected by HUD and SDNY and chosen on the basis of merit to serve as the Monitor.
17. In the event that the individual serving as Monitor resigns or otherwise ceases to serve as Monitor, HUD and SDNY shall jointly designate a replacement Monitor. The replacement Monitor shall be an individual chosen on the basis of merit. HUD and SDNY will provide the City an opportunity to provide its views to with respect to possible replacement Monitors.
18. The Monitor may engage such staff, expert consultants, or other third-party contractors as he or she deems appropriate to use his or her powers fully and perform his or her responsibilities fully.
19. The Monitor shall submit an annual budget for the monitorship, including work, staff, expert consultants or other third-party contractors engaged by the Monitor, to HUD, SDNY, NYCHA and the City for approval.
 - a. Any dispute over the Monitor's budget shall be submitted to the Secretary for final decision.
 - b. The Monitor's approved annual budget shall be made publicly available.
 - c. Amendments to the budget shall proceed through the same process described in this paragraph.
 - d. The Monitor shall notify HUD, SDNY, NYCHA and the City when the Monitor has spent 75% of an approved annual budget.
 - e. If the Monitor exceeds the approved annual budget, the Monitor shall inform the City promptly after becoming aware of the overrun and shall submit to HUD, SDNY, NYCHA and the City a detailed explanation for the overrun, as well as a proposed amended budget reflecting the cost overrun and any other necessary adjustments pursuant to the process for amended budgets.
20. The City shall pay the approved costs of the monitorship. Such costs shall be in addition to the City Funding described in Section VII.

B. General Powers

21. The Monitor, HUD, EPA and SDNY shall have, solely for the purposes of this agreement, full access to all information in NYCHA's possession, including but not limited to data systems, documents, and materials, and they shall have full access to all programs, services, facilities, and premises under the control of NYCHA. Nothing herein limits the ability of HUD, EPA, and SDNY to use such information, once accessed, for any enforcement purpose. The Monitor, HUD, EPA and SDNY shall comply with any applicable federal law regarding personally identifiable information to which the Monitor, HUD, EPA and SDNY obtain access. This provision does not permit access to information protected by the attorney-client privilege or the attorney work product protection without NYCHA's consent. Nothing in this Agreement will otherwise restrict or limit any existing rights to access of HUD, EPA or SDNY.
22. The Monitor may communicate with NYCHA officers, employees, contractors, managers, board members, or residents without notice to NYCHA and without NYCHA's permission or presence, provided that such individuals shall not provide any information subject to the attorney-client privilege or attorney work product protection without NYCHA's consent. NYCHA shall make any such individuals within its control available to the Monitor upon request.
23. The Monitor may communicate at his or her discretion with any Party, the public, NYCHA residents, and representatives of any federal, state, or local United States entity.
24. The Monitor shall not be responsible for NYCHA's day-to-day operations. Nothing in this paragraph is intended to limit the powers of the Monitor otherwise granted under this Agreement.

C. Reporting

25. The Monitor shall submit a Quarterly Report, beginning after the first full quarter after the date of appointment, to HUD, EPA, and SDNY, setting out:
 - a. The work performed by the Monitor during the relevant period;
 - b. The extent to which NYCHA is complying with the Agreement, including Exhibit A and Exhibit B;
 - c. Objective data showing NYCHA's progress toward achievement of the requirements in Exhibit A and Exhibit B; and
 - d. Any other information the Monitor may deem appropriate regarding matters covered by the Agreement.
26. The Quarterly Reports or a summary thereof shall be made publicly available on NYCHA's website.

27. NYCHA shall meet with the Monitor, HUD, EPA and SDNY (at their discretion) to review the Monitor's Quarterly Reports and discuss strategies for improving NYCHA's performance. In addition, upon request by HUD, EPA, or SDNY, the Monitor shall meet with them (individually or collectively) to review NYCHA's performance under this Agreement, including to review the Monitor's Quarterly Reports.
28. The Quarterly Report issued five years from the Effective Date, and each Quarterly Report thereafter, shall include an assessment of whether NYCHA meets the Criteria for Termination, as described in paragraph 86.

D. Community Engagement

29. The Monitor shall engage with NYCHA stakeholders, including residents and resident groups, regarding matters related to the Agreement.
30. The Monitor shall periodically (but at least quarterly) convene a Community Advisory Committee, consisting of NYCHA stakeholders such as NYCHA's Resident Advisory Board; resident, community, and employee representatives; senior NYCHA managers; and other relevant stakeholders to solicit input regarding the achievement of the Agreement's purpose.
31. The Monitor shall establish procedures for the Monitor to communicate with and solicit comment from residents, resident groups, and other NYCHA stakeholders outside of the Community Advisory Committee.

E. Coordination

32. The Monitor shall coordinate with any court-appointed officers addressing matters covered by this Agreement, including the Special Master appointed in *Baez v. NYCHA*, No. 13 Civ. 8916 (S.D.N.Y.).

V. Compliance Requirements and Action Plans

33. NYCHA will implement and achieve substantial compliance with the requirements of Exhibit A and Exhibit B by the deadlines set forth therein.
34. NYCHA shall cooperate in all respects with actions taken by the Monitor under this Agreement.
35. NYCHA will prepare Action Plans setting forth policies and practices to be adopted and specific actions to be taken by NYCHA to achieve the obligations set forth in Exhibit A and Exhibit B and comply with the terms of this Agreement.
36. NYCHA shall submit each such Action Plan to the Monitor, with a copy to HUD and SDNY, for approval on a schedule set by the Monitor. Upon receipt of a proposed Action Plan submitted by NYCHA, the Monitor shall approve or reject the Action Plan as submitted within a reasonable time. The Monitor shall consider

public health and safety, cost, and other factors deemed relevant by the Monitor in reviewing a proposed Action Plan.

- a. If the Action Plan is rejected, the Monitor shall inform NYCHA (in writing if so requested by NYCHA) of the reasons the Action Plan is rejected. NYCHA shall promptly submit a revised proposed Action Plan addressing the deficiencies in the original Action Plan identified by the Monitor.
 - b. If NYCHA is unable to submit a revised proposed Action Plan acceptable to the Monitor within 30 days of the rejection, the Monitor may submit a proposed revised Action Plan to NYCHA, HUD and SDNY. Within 21 days of submission of the Monitor's proposal, NYCHA may submit comments on the proposal to HUD and SDNY. HUD and SDNY shall consider the Monitor's proposal and NYCHA's comments.
 - c. After considering the submissions and consultation with the Monitor, HUD (and, with respect to a revised proposed Action Plan implementing Exhibit A, SDNY) may approve the Monitor's proposal, approve NYCHA's proposal, approve either proposal with modifications, or reject the proposals. NYCHA and the Monitor shall be provided with notice of and a reasonable opportunity to comment on any non-de minimis modifications to the proposals submitted before a modified proposal goes into effect.
 - d. Nothing in the foregoing shall prevent NYCHA from taking actions it determines are necessary in the interest of residents while approval of an Action Plan is pending.
37. An Action Plan shall set forth policies and practices to be adopted and specific actions to be taken by NYCHA to achieve sustained compliance with particular aspects of this Agreement. Each Action Plan shall include interim milestones to be achieved by specified completion dates for all obligations due more than 60 days from the date of the Action Plan. An Action Plan may include, among other things, changes to policies, procedures, systems, personnel and management structures.
38. An Action Plan may set forth a methodology for calculating metrics contained in Exhibit A and Exhibit B, provided that such methodology is consistent with the terms of those Exhibits.
39. Any proposed revised Action Plan of the Monitor may direct NYCHA to select an independent contractor to perform work called for by an Action Plan. The Monitor shall give such direction through a revision to an Action Plan when the Monitor believes it is important to achieve or sustain NYCHA's compliance with

the Agreement, taking into consideration public health and safety, cost, and other factors deemed relevant by the Monitor. The selection of an independent contractor pursuant to this paragraph shall be through an open and public bidding process, consistent with applicable law, which shall detail the scope of work. NYCHA, in consultation with the Monitor, shall make the selection of an independent contractor based upon the contractor's experience, skill, expertise, and the estimated time and cost of repairs.

40. NYCHA shall promptly adopt each approved Action Plan as its official policy, procedure and course of action and shall use best efforts to implement such Action Plan. The obligation to use "best efforts" with respect to Action Plans does not diminish NYCHA's obligation to achieve substantial compliance with the requirements of Exhibit A and Exhibit B. An Action Plan shall not waive or affect any requirements of this Agreement, including Exhibit A and Exhibit B, which requirements shall be binding on NYCHA independently of any Action Plan.
41. NYCHA shall post each approved Action Plan on its public website.
42. The Monitor may direct NYCHA to submit, by a date certain, a replacement for or modification to any previously approved Action Plan. Such replacement or modified Action Plan will be subject to the process described in paragraphs 36 to 41.
43. At NYCHA's request, the Monitor will consider whether a modification to one or more requirements of Exhibit A, Exhibit B, or an approved Action Plan will further the purposes of this Agreement. If the Monitor determines that modifying such requirement will further the purposes of the Agreement, the Monitor may propose such modification to HUD and SDNY (and EPA as to a modification to Exhibit A). If HUD and SDNY (in consultation with EPA as to Exhibit A) concur in a proposed modification, such modification will go into effect and be a binding part of this agreement.

VI. Institutional Changes

A. Change in Leadership

44. The City shall follow the following process to select a permanent Chair and CEO for NYCHA:
 - a. By 30 days after the Effective Date, a list of candidates for the position of Chair and CEO shall be jointly developed by the City, HUD, and SDNY. Every candidate on the list shall be jointly agreed to by the City, HUD, and SDNY. The City, HUD, and SDNY shall have the opportunity to interview any candidates.
 - b. By the end of the 30 day period after the list of candidates is finalized, the City shall select a permanent Chair and CEO for

NYCHA from the jointly-developed list of candidates. If the selected candidate accepts the position, the selected candidate will begin serving as NYCHA Chair and CEO within 30 days of the candidate's selection, unless the candidate's personal circumstances require the candidate to start at a later date. If a selected candidate does not accept the position, the City may choose another individual from the list of candidates for the position, and that individual will begin serving as NYCHA Chair and CEO within 30 days of the candidate's selection, unless the candidate's personal circumstances require the candidate to start at a later date. In the alternative, the City may choose to restart the selection process set forth in this paragraph 44, in which case a new joint list shall be developed within 30 days of the date the selected candidate declined the position.

- c. The time periods in subparagraphs 44(a)-(b) shall, upon agreement by HUD, SDNY, NYCHA, and the City, be reasonably extended if extraordinary circumstances necessitate such an extension.
- d. During the term of this Agreement, NYCHA's Chair and CEO shall not be removed or replaced without the concurrence of HUD and SDNY.
- e. During the term of this Agreement or ten years, whichever is shorter, any vacancy in this position shall be filled pursuant to the process set out in this paragraph.

B. Organizational Plan

45. No later than 60 days after the appointment of the Monitor, the City shall engage a third-party management consultant selected jointly by the City and the Monitor. The consultant shall examine NYCHA's systems, policies, procedures, and management and personnel structures, and make recommendations to the City, NYCHA, and the Monitor to improve the areas examined.
- a. The consultant shall have full access to all information in NYCHA's possession not covered by the attorney-client privilege or attorney work product protection, including but not limited to data systems, documents, and materials, and they shall have full access to all programs, services, facilities, and premises under the control of NYCHA.
 - b. The City shall pay any costs and fees of the consultant.
 - c. The consultant's scope of work shall be jointly developed by the Monitor, NYCHA, and the City.

- d. The consultant shall deliver a final report and recommendations to the City, NYCHA, and the Monitor, with copies to HUD, EPA and SDNY, no later than a deadline to be set by the Monitor.
46. The Monitor and NYCHA collaboratively shall prepare an “Organizational Plan” setting forth changes to NYCHA’s management, organizational, and workforce structure (including work rules), and overarching policies necessary or appropriate to achieve sustained compliance with NYCHA’s obligations under this Agreement. The Organizational Plan may include, among other things, changes to the roles, responsibilities, authorities, and reporting lines of NYCHA’s Chair, General Manager, and Board. The Organizational Plan shall address the recommendations of the third-party management consultant and explain any deviations from those recommendations.
47. The proposed Organizational Plan shall be submitted to HUD, SDNY, and the City no later than six months from the receipt of the consultant’s report. After consultation with and concurrence by HUD and SDNY, the Organizational Plan shall be considered final.
48. If NYCHA and the Monitor are unable to agree on an Organizational Plan, then the Monitor shall develop his or her own Organizational Plan and shall provide copies of the plan to NYCHA, the City, HUD, and SDNY. The Monitor shall consider public health and safety, cost, and other factors deemed relevant by the Monitor in developing the Organizational Plan.
- a. Within 21 days of submission of the Monitor’s proposal, NYCHA may make a submission regarding the proposal to HUD and SDNY. HUD and SDNY shall consider the Monitor’s proposal and NYCHA’s comments.
 - b. After considering the submissions and consultation with the Monitor, HUD and SDNY may approve the Monitor’s proposal, approve NYCHA’s proposal, approve either proposal with modifications, or reject the proposals. NYCHA and the Monitor shall be provided with notice of and a reasonable opportunity to comment on any non-de minimis modifications to the proposals submitted before a modified proposal goes into effect.
49. Once an Organizational Plan has been approved, NYCHA shall promptly adopt it as its official policy, procedure and course of action and shall use best efforts to implement it.
50. Nothing in the foregoing shall prevent NYCHA from taking actions it determines are necessary in the interest of residents while approval of an Organizational Plan is pending.

51. The Monitor and NYCHA may develop and issue a replacement for or modification to any previously approved Organizational Plan. Paragraphs 47 through 49 shall apply to such replacement or modification.
52. NYCHA shall report in writing to the Monitor, HUD, and SDNY on its compliance with the Organizational Plan sixty days after it is issued, and every sixty days thereafter until the Organizational Plan is fully implemented.

C. Compliance Department

53. No later than 45 days after the appointment of the Monitor, NYCHA, in consultation with the Monitor, shall establish and maintain a Compliance Department that will serve the following functions:
 - a. Overseeing NYCHA's regulatory compliance with regard to federal, state, and local obligations.
 - b. Ensuring the accuracy of external reporting and statements by NYCHA.
 - c. Ensuring that NYCHA management and staff receive appropriate compliance training.
 - d. Maintaining a forum for employee, contractor, and resident complaints (including anonymous complaints) regarding compliance issues, and taking action on such complaints as appropriate.
 - e. Ensuring the integrity of PHAS and other inspections at NYCHA.
 - f. Advising the Environmental Health and Safety Officer (described below) of any information obtained by the Compliance Department that relates to environmental health and safety issues.
 - g. Coordinating with the Environmental Health and Safety Officer regarding issues that impact both compliance and environmental health and safety.
 - h. Reporting to the Monitor regarding any compliance issues identified during the term of the Agreement.
54. The Compliance Department shall be headed by a Chief Compliance Officer appointed by NYCHA with the concurrence of the Monitor, after providing HUD and SDNY an opportunity to comment. Except insofar as otherwise provided in the Organizational Plan, the Chief Compliance Officer shall report directly to NYCHA's Chair.

D. Environmental Health and Safety Department

55. No later than 45 days after appointment of the Monitor, in consultation with the Monitor, NYCHA shall create an Environmental Health and Safety Department that will serve the following functions:

- a. Analyzing, overseeing, and improving environmental health and safety at NYCHA, which shall include but not be limited to issues relating to lead-based paint, mold, heating, pests, elevators, air quality, and other aspects of NYCHA's physical environment that affect residents' health or safety.
- b. Reporting to NYCHA's senior management and Board on environmental health and safety issues.
- c. Making recommendations to NYCHA's senior management and Board for improvement and correction of any environmental health and safety issues at NYCHA.
- d. Communicating with the public and stakeholders regarding environmental health and safety issues, including by maintaining a forum for employee and resident complaints (including anonymous complaints) regarding environmental health and safety issues.
- e. Advising the Chief Compliance Officer of any information obtained by the Environmental Health and Safety Department that relates to regulatory compliance.
- f. Coordinating with the Chief Compliance Officer regarding issues that impact both compliance and environmental health and safety.
- g. Ensuring the proper application of lead paint interim controls and proper abatement of lead paint.

56. The Environmental Health and Safety Department shall be headed by an Environmental Health and Safety Officer appointed by NYCHA with the concurrence of the Monitor, after providing HUD and SDNY an opportunity to comment. Except insofar as otherwise provided in the Organizational Plan, the Environmental Health and Safety Officer shall report directly to NYCHA's Chair.

E. Quality Assurance Unit

57. No later than 45 days after appointment of the Monitor, in consultation with the Monitor, NYCHA shall create a Quality Assurance Unit that will serve the following functions:

- a. Identifying maintenance performance problems that are related to particular buildings, units, managers, or staff.

- b. Using available information and research tools, including work-order data, resident interviews, employee interviews, and site visits.
- c. Considering both performance on individual work orders and also performance of maintenance repairs from the first identification of need to the ultimate correction of the problem (“end-to-end”).
- d. Reviewing work performed by NYCHA in advance of PHAS inspections to determine whether that work was industry-standard quality.
- e. Verifying and contributing to compliance with the Agreement insofar as the Agreement bears on maintenance work at NYCHA.
- f. Communicating with the public and stakeholders regarding quality assurance issues, including maintaining a forum for employee and resident complaints (including anonymous complaints), regarding quality assurance issues.
- g. Providing relevant Quality Assurance Unit findings to NYCHA managers, including the General Manager, and (during the term of the Agreement) to the Monitor, SDNY, and HUD.

58. The Quality Assurance Unit shall be headed by a Quality Assurance Officer appointed by NYCHA with the concurrence of the Monitor, and after providing HUD and SDNY an opportunity to comment. Except insofar as otherwise provided in the Organizational Plan, the Quality Assurance Officer shall report directly to NYCHA’s General Manager.

59. No later than 60 days after the appointment of the Monitor, NYCHA shall provide the HUD, SDNY, and the Monitor with a certification of compliance with paragraphs 53 to 59.

F. PHAS Inspections

60. NYCHA will not use deceptive practices with respect to PHAS inspections, will make all improvements in accordance with PIH Notice No. 2016-03, Uniform Physical Condition Standard (UPCS) Deficiencies and Industry Standard Repairs, July 11, 2016 or any subsequent or superseding guidance; will ensure that all maintenance repairs are performed to established industry standards and workmanship; and will ensure that properties meet HUD’s decent, safe, sanitary, and in good repair standards at all times.

61. NYCHA shall design internal controls to prevent deceptive practices including:

- a. Covering up/hiding conditions.

- b. Performing substandard repairs.
- c. Performing work in common areas after an inspection begins, other than for emergency health and safety issues.
- d. Performing work in selected or alternate units after such units have been identified, other than for emergency health and safety issues.

62. NYCHA's Chief Compliance Officer will be responsible for preventing deceptive practices with respect to PHAS investigations and ensuring compliance with HUD regulations and guidelines with respect to PHAS inspections. These responsibilities will include, but not be limited to:

- a. Ensuring that training is provided to NYCHA employees on the regulations and guidelines with respect to PHAS inspections, including in particular the importance of not committing deceptive practices in PHAS inspections.
- b. Routinely advising employees to report deceptive or otherwise improper PHAS practices to the Chief Compliance Officer.
- c. Investigating such complaints as well as forwarding such complaints to the HUD and SDNY, and otherwise as required by applicable law.
- d. Working with the Quality Assurance Unit to identify instances of improper work in connection with a PHAS inspection; provided, however, that the QA Unit's role is to identify maintenance needs and ensure the quality of work done throughout NYCHA throughout the year, and not to perform pre-PHAS maintenance itself.
- e. Reviewing available data to identify any instances of improper work in connection with a PHAS inspection, including, but not limited to, those identified by the QA unit.
- f. Recommending discipline for any managers or staff who conduct deceptive practices in PHAS inspections.
- g. Nothing in this section limits NYCHA residents', NYCHA contractors', or NYCHA employees' ability to raise issues with any other federal, state, or local government entity.
- h. By ninety (90) days after the appointment of the Monitor, NYCHA will submit an Action Plan to the Monitor for meeting the requirements discussed in this Section ("PHAS Inspections"). This Action Plan will be subject to the procedures of paragraphs 36-42.

VII. City Funding

63. To assist NYCHA in its compliance with this Agreement, including Exhibit A and Exhibit B, and implementation of Action Plans adopted hereunder, the City agrees to provide financial support to NYCHA as follows:

- a. to provide the capital funding to NYCHA through Fiscal Year (“FY”) 2027 reflected in Exhibit C under the heading “Capital Items,” including allocations that flow to NYCHA developments through the Department of Housing Preservation and Development. NYCHA and the Monitor shall have maximum flexibility as provided by law with respect to the projects for which these funds are utilized. Nothing in this paragraph shall be construed as authorizing the shifting of funds from a particular initiative or project to another initiative or project;
- b. to provide the annual operating funds to NYCHA through FY 2027 reflected in Exhibit C under the heading “Expense Items.” NYCHA and the Monitor shall have maximum flexibility as provided by law with respect to the projects for which these funds are utilized. Nothing in this paragraph shall be construed as authorizing the shifting of funds from a particular initiative or project to another initiative or project;
- c. to not impose new or increased payment requirements or fees on NYCHA except for payments such as water fees imposed uniformly on New York City landlords;
- d. in addition to the funding in subparagraphs (a) and (b) above, to provide a total of \$1.0 billion in funding for capital expenses as provided in an Action Plan over the four fiscal years following the Effective Date of this Agreement; and
- e. to provide, for the duration of the Agreement or for at least each of the six fiscal years after the first four fiscal years following the Effective Date of this Agreement, whichever is later, an additional \$200 million per year in funding for capital expenses as provided in an Action Plan to NYCHA in addition to the funding in subparagraphs (a) and (b) above.

64. If this Agreement is terminated pursuant to section XIV of this Agreement, or in the event the Secretary exercises his authority under Section 6(j) of the Housing Act as described below, the City’s funding obligations shall be affected as follows:

- a. If the Agreement is terminated pursuant to the provisions of section XIV, the City’s funding obligations under subparagraphs 63(a)-(e) of this Agreement shall not be affected.

- b. If the Secretary exercises his authority under 42 U.S.C. § 1437d(j)(3)(A)(iv) to take possession of a portion of NYCHA's public housing program following a recommendation of the Monitor, and the subsequent concurrence of NYCHA's CEO, for the limited purpose of (1) abrogating any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, and after the Secretary determines that reasonable efforts to renegotiate such contract have failed, pursuant to 42 U.S.C. § 1437d(j)(3)(D)(i)(I); and/or (2) directing NYCHA not to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, pursuant to 42 U.S.C. § 1437d(j)(3)(D)(i)(V), then the City's funding obligations under subparagraphs 63(a)-(e) of this Agreement shall not be affected.
- c. The Monitor's recommendation under subparagraph 64.b must state in writing the basis for the Monitor's belief that such contract substantially impedes correction of the substantial default and that reasonable efforts to renegotiate such contract have failed and/or that a State or local law substantially impedes compliance with this Agreement. Prior to making the recommendation, the Monitor must have described the contract, state or local law in a quarterly report and explained the manner in which the Monitor believes such contract, state or local law impedes correction of the substantial default. The Monitor's recommendation shall specifically explain any potential impact on the overall operations of NYCHA and any potential disruption to NYCHA residents, and shall consider public health and safety, cost, and such other factors deemed relevant by the Monitor.
- d. The CEO may non-concur with the Monitor's recommendation if the CEO determines that the action recommended by the Monitor is not in the best interest of NYCHA residents. In such circumstance, the CEO shall provide to the Monitor and the Secretary a written determination of non-concurrence and the reasons for the non-concurrence.
- e. If the Secretary, without a recommendation of the Monitor and concurrence of the CEO, exercises his authority under 42 U.S.C. § 1437d(j)(3)(A)(iv) to take possession of a portion of NYCHA's public housing program for the limited purpose of (1) abrogating any contract to which the United States or an agency of the United

States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, and after the Secretary determines that reasonable efforts to renegotiate such contract have failed, pursuant to 42 U.S.C.

§ 1437d(j)(3)(D)(i)(I); and/or (2) directing NYCHA not to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, pursuant to 42 U.S.C. § 1437d(j)(3)(D)(i)(V), then the City's funding obligations under subparagraphs 63(a)-(e) of this Agreement shall terminate.

- f. If the Secretary exercises his or her authority to (1) solicit competitive proposals from other public housing agencies or private housing management agents to manage all or substantially all of NYCHA or take any action under 42 U.S.C. § 1437d(j)(3)(A)(i); (2) petition the United States District Court for the appointment of a receiver or take any action under 42 U.S.C. § 1437d(j)(3)(A)(ii); (3) solicit competitive proposals from other public housing agencies or any private entities to oversee NYCHA's Capital Fund or take any action under 42 U.S.C. § 1437d(j)(3)(A)(iii); (4) take possession of all or part of NYCHA under 42 U.S.C. § 1437d(j)(3)(A)(iv), other than as provided above in subparagraphs 64.b to 64.d; or (5) require NYCHA to make arrangements under 42 U.S.C. § 1437d(j)(3)(A)(v) other than this Agreement or modifications to this Agreement made pursuant to section XIII, then the City's funding obligations under subparagraphs 63.a through 63.e of this Agreement shall terminate.

65. The City's funding obligations under this Agreement shall not be reduced by any funding provided by any other sources (including Borough President or City Council funds). The City shall not set off its obligation to pay funds under this Agreement against any funds that may now or in the future be due from NYCHA to the City, nor shall it exercise any right of recoupment related thereto.
66. Subject to the following paragraph 67, the funding pursuant to subparagraphs (d) and (e) of paragraph 63 shall be provided by the City to NYCHA as follows: the Monitor (or NYCHA at the Monitor's direction) will submit a project description and scope of work to the City's Office of Management and Budget ("OMB"). OMB shall approve this submission if the funds requested are within the dollar amounts described in subparagraphs (d) and (e) of paragraph 63. Subsequent to approval, NYCHA will submit the corresponding contracts to the City Comptroller for registration to the extent required by law.

67. In the event that the total amount of funds provided by the City pursuant to subparagraphs (a), (b), (d), and (e) of paragraph 63 have not been paid by the City to NYCHA during the time periods described in those subparagraphs, the unpaid amounts will be carried over and added to the funds available to NYCHA in the immediately following fiscal year and, to the extent unspent in the next fiscal year, shall continue to be carried over and added to each subsequent fiscal year until spent.
68. Neither the Monitor nor NYCHA shall use City capital funds for other than capital projects.
69. NYCHA and the Monitor may request, in light of capital funds provided by the City under paragraph 63, that HUD repurpose HUD capital funds for use for noncapital purposes.
70. All funds described in subsections (d) and (e) of paragraph 63 shall be spent only pursuant to an Action Plan approved by the Monitor and designed to meet NYCHA's obligations under the Agreement, and work paid for by such funds shall be performed under the direction of the Chair and General Manager subject to the terms of this Agreement.
71. Nothing in this Agreement precludes the City, at its exclusive option or as otherwise provided by law, from authorizing additional capital funding for NYCHA.
72. In the event that an undue financial hardship results in the City's financial inability to pay the full amount pursuant to paragraph 63, the City shall submit to the Monitor, HUD, SDNY, and NYCHA, within 45 days of the Monitor's request, a certification signed by the Mayor of the City and the City Comptroller setting forth that the City is unable to pay the entire amount requested, providing in detail the amount the City has the financial ability to pay ("Available Amount"), a description of the causes and extent of the undue financial hardship, and an explanation as to how the Available Amount was determined. The certification shall include a date when the City will be able to make available more or all of the funds due. If the City is unable to provide such a date in the certification, the City shall provide a certification every 90 days until it is able to provide a date ("Future Availability Date") by which it will make available more or all of the remaining funds (collectively, the "Unpaid Amount"). The City will pay the Available Amount as provided in paragraph 63. If the City and HUD (after consultation with SDNY) agree that there exists undue financial hardship on the part of the City, then NYCHA or the Monitor may seek a modification of applicable Action Plans or other obligations pursuant to paragraph 85.
73. In any dispute regarding the existence and amount of undue financial hardship within the meaning of paragraph 72, the City shall bear the burden of proof.

VIII. Regulatory Relief

74. The Monitor shall assist NYCHA in seeking such regulatory relief from HUD, the City of New York, and the State of New York, as he or she deems is necessary for NYCHA to comply expeditiously and in a cost-effective manner with its obligations under this Agreement.
75. HUD shall consider any requests under paragraph 74 in accordance with all applicable legal requirements and principles of administrative procedure. Nothing in this Agreement limits HUD's discretion in considering such requests. HUD and NYCHA shall create a working group on regulatory relief in order to further the purposes of this Agreement. This working group shall facilitate the prompt response to NYCHA's waiver requests. HUD shall endeavor to respond to NYCHA's pending waiver requests within a reasonable timeframe from the Effective Date of this Agreement.

IX. HUD Actions

76. HUD agrees to continue providing public housing operating and capital funds to NYCHA in accordance with its rules and regulations, including the funding formulas for operating and capital funds. In accordance with these rules, regulations and formulas, HUD will not offset or reduce the formula grants by the amount of the funds the City is providing to NYCHA pursuant to this Agreement.
77. HUD, in its discretion, may provide available technical assistance to NYCHA to facilitate compliance with the Work Plan.
78. HUD agrees to support NYCHA's Section 8 conversion programs known as PACT, as permitted by law.

X. Force Majeure

79. "Force Majeure," for purposes of this Agreement, is defined as any event arising from causes beyond the control of NYCHA that delays or prevents the performance of any obligation under this Agreement despite NYCHA's best efforts to fulfill the obligation. The requirement that NYCHA exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential Force Majeure event and best efforts to address the effects of any potential Force Majeure event (a) as it is occurring and (b) following the potential Force Majeure, such that the delay and any adverse effects of the delay are minimized. "Force Majeure" does not include NYCHA's financial inability to perform any obligation under this agreement.
80. If any event occurs or has occurred that may delay the performance of any obligation under this Agreement that NYCHA or the City intends to assert was caused by a force majeure event, NYCHA or the City shall provide notice to the Monitor, HUD, EPA and SDNY (if the event affects the performance of requirements contained in Exhibit A or Action Plans implementing Exhibit A)

within 30 days of when NYCHA or the City first knew that the event might cause a delay and provide NYCHA or the City's rationale for attributing such delay to a force majeure event. The Monitor, HUD, EPA or SDNY may request further information about the assertion of force majeure.

81. If HUD and, if the event affects the performance of requirements contained in Exhibit A or Action Plans implementing Exhibit A, SDNY agree that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Agreement that are affected by the force majeure event will be extended for such time as is necessary to complete those obligations in light of the force majeure event. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. HUD and SDNY (if the event affects the performance of requirements contained in Exhibit A or Action Plans implementing Exhibit A) will notify NYCHA and the City in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

XI. Notices

82. Unless otherwise specified in this Agreement, whenever notifications, submissions, or communications are required by this Agreement, they shall be made in writing and addressed as follows:

As to HUD by mail: Dane Narode
U.S. Department of HUD
Office of General Counsel
1250 Maryland, Ave, SW, Suite 200
Washington, DC 20024

As to HUD by email: dane.m.narode@hud.gov

As to SDNY by mail: Robert William Yalen, AUSA
U.S. Attorney's Office
86 Chambers St., 3rd Floor
New York, NY 10007

As to SDNY by email: robert.yalen@usdoj.gov
monica.folch@usdoj.gov
jacob.lillywhite@usdoj.gov
taliam.kraemer@usdoj.gov
sharanya.mohan@usdoj.gov

As to NYCHA by mail: Stanley Brezenoff
Chair and Chief Executive Officer
New York City Housing Authority
250 Broadway
New York, NY 10007

Debo P. Adegbile
Wilmer Cutler Pickering
Hale & Dorr LLP
7 World Trade Center
New York, NY 10007

As to NYCHA by email: stanley.brezenoff@nycha.nyc.gov
debo.adegbile@wilmerhale.com

As to the City by mail: Zachary W. Carter
Corporation Counsel
New York City Law Department
100 Church Street
New York, NY 10007

As to the City by email: zcarter@law.nyc.gov

As to EPA by mail: Chief, Pesticide and Toxic
Substances Branch
U.S. EPA
2890 Woodbridge Avenue
Edison, NJ 08837

As to EPA by email: gorman.john@epa.gov

83. HUD, EPA, SDNY, NYCHA and the City may, by written notice to the others, change its designated notice recipient or notice address provided above.

XII. Effective Date

84. This Agreement shall become effective upon execution.

XIII. Modification

85. The terms of this Agreement may be modified only by a subsequent written agreement signed by HUD (with the concurrence of SDNY), NYCHA, and the City.

XIV. Termination

86. The Criteria for Termination are that:

- a. NYCHA has been in substantial compliance with its obligations under this Agreement for at least the prior twelve months; and
- b. NYCHA is willing and able, following termination, to comply with applicable laws.

87. If, at any time more than five years after the Effective Date, NYCHA believes that it has satisfied the Criteria for Termination set forth in paragraph 86, then it may file a written request with HUD to terminate all or parts of this Agreement. If HUD after consultation with SDNY (and EPA, as to Exhibit A) agrees that NYCHA has satisfied the Criteria for Termination, with respect to the entire Agreement or with respect to the particular provisions sought to be terminated, then, within 10 days of making that determination, HUD will agree to terminate all or parts of the Agreement; provided, however, that to the extent the request for termination relates in whole or part to the requirements of Exhibit A, HUD and SDNY shall jointly decide whether the Criteria for Termination are met. If HUD (or HUD and SDNY in the case of Exhibit A) determines that one or more of the Criteria for Termination are unsatisfied, then HUD (or HUD and SDNY jointly in the case of Exhibit A) shall reject NYCHA's request. In this event, HUD (or HUD and SDNY jointly in the case of Exhibit A) shall notify NYCHA in writing of the criteria which are unsatisfied.

88. HUD may determine at any time and in its discretion to lift its determination of substantial default. Such event shall not terminate this Agreement.

XV. Dispute Resolution

89. If, at any time prior to the termination of this Agreement, the Monitor, HUD, or SDNY believes that NYCHA or the City is not in compliance with any obligation under this Agreement, HUD in consultation with SDNY shall consider whether such noncompliance may be addressed through informal dispute resolution, prior to pursuing Enforcement under Section XVI. If so, HUD, SDNY, the Monitor, NYCHA, and the City, as appropriate, shall make good faith efforts to meet and confer regarding a resolution of the dispute.

XVI. Enforcement

90. If the Monitor finds that NYCHA has failed to substantially comply with any of the requirements of this Agreement, including the procedural and substantive requirements in Exhibits A and B, or has failed to adopt or use best efforts to implement an Action Plan or Organizational Plan as required under the terms of this Agreement, then the Monitor may remedy such noncompliance as follows:

- a. The Monitor shall inform NYCHA in writing of the noncompliance and provide NYCHA 30 days in which to correct the noncompliance or to propose a plan for achieving substantial compliance that is acceptable to the Monitor.
 - b. If NYCHA fails to correct the noncompliance within 30 days, fails to propose a plan for achieving substantial compliance that is acceptable to the Monitor within 30 days, or fails to comply with a plan for achieving substantial compliance approved by the Monitor, the Monitor may propose a remedial directive requiring NYCHA to take specific action correct the noncompliance, which actions may include, but are not limited to, requiring NYCHA to (1) allocate or reallocate personnel; (2) allocate or reallocate resources; (3) take or refrain from specific actions; (4) hire independent contractors; (5) hire independent experts; or (6) increase NYCHA staff for specific functions. The Monitor shall consider public health and safety, cost, and other factors deemed relevant by the Monitor in developing a remedial directive.
 - c. The Monitor shall submit the proposed remedial directive for review to NYCHA, HUD, and SDNY 30 days in advance of the proposed date for the Monitor to issue the remedial directive. NYCHA may submit comments to HUD and SDNY within 21 days thereafter. HUD and SDNY shall consider the Monitor's proposal and NYCHA's comments.
 - d. After considering the submissions and consultation with the Monitor, HUD may approve the Monitor's proposal, approve NYCHA's proposal, approve either proposal with modifications, or reject the proposals. NYCHA and the Monitor shall be provided with notice of and a reasonable opportunity to comment on any non-de minimis modifications to the proposals submitted before a modified proposal goes into effect.
 - e. Upon approval of a remedial directive by HUD, the Monitor may issue a remedial directive.
91. If, after the issuance of a remedial directive, the Monitor finds that NYCHA has failed to comply with the remedial directive; continues to fail in using best efforts to implement the Plan addressed by the remedial directive; or continues to fail to meet the requirements in Exhibit A or Exhibit B addressed by the remedial directive, then NYCHA agrees that the Monitor may take such actions on NYCHA's behalf as the Monitor deems necessary to implement the remedial directive directly. The Monitor shall submit the proposed actions to be taken on NYCHA's behalf to NYCHA and to HUD with a copy to SDNY (or in the case of Exhibit A or Action Plans related thereto, to HUD and SDNY jointly) 30 days in advance of the proposed date for the Monitor to take such action. NYCHA may

submit comments to HUD and SDNY within 14 days thereafter. Upon concurrence in the remedial directive by HUD (after consultation with SDNY, or in the case of Exhibit A or Action Plans related thereto, by HUD and SDNY jointly), the Monitor may issue a remedial directive.

92. Paragraphs 90 and 91 shall not be used to address failures by NYCHA that are de minimis.
93. Nothing in this Agreement should be construed to limit HUD's or EPA's statutory or regulatory authority. HUD and EPA reserve all of their rights under applicable law, including, but not limited to, the right to appoint, or to seek judicial appointment of, a receiver for substantial default, as well as all other administrative remedies and authority.
94. In addition to all otherwise available remedies, if NYCHA or the City fails to comply with any part of this Agreement, HUD, EPA, or the United States on behalf of HUD and/or EPA, may pursue any remedy available to them, including to enforce this agreement by seeking injunctive relief or an order of specific performance in the U.S. District Court of the Southern District of New York. With respect to any such action to enforce this agreement:
 - a. The City and NYCHA agree that a non-de minimis failure to comply with this Agreement causes an irreparable harm to the United States and warrants the issuance of injunctive relief for specific performance.
 - b. The City and NYCHA agree that they waive any defenses, legal or equitable, that might exist with respect to such action, except the defenses that there was no non-de minimis failure of compliance with the Agreement and that the relief proposed is not necessary to remedy the noncompliance.
 - c. The City and NYCHA agree that expedited resolution is required. The City and NYCHA consent to expedited resolution and to an expedited schedule for resolution of the dispute on the merits.
95. Nothing in this Agreement should be construed to limit the authority of HUD, EPA or the United States on behalf of HUD and/or EPA, to seek judicial enforcement of this Agreement.

XVII. Effect of Agreement; Waiver

96. This Agreement shall not be construed to create rights in, or grant any cause of action to, anyone not a Party to this Agreement, other than EPA or SDNY.
97. This Agreement shall not be construed to create any greater rights of NYCHA or the City against the United States (including HUD) than would otherwise exist.

98. NYCHA and the City waive any claims that exist as of the Execution Date against the United States (including HUD) and any of its employees and agents related to the subject matter of this Agreement.
99. NYCHA and the City waive any claims against the United States (including HUD) regarding the validity of this Agreement or any modifications thereto.
100. NYCHA and the City agree not to contest HUD's determination that NYCHA is in substantial default within the meaning of Section 6(j)(3)(A) of the U.S. Housing Act.
101. NYCHA and the City agree not to contest HUD's determination that the terms of this Agreement constitute an "arrangement[] acceptable to the Secretary and in the best interests of the public housing residents . . . for managing all, or part, of the public housing administered by the agency or of the programs of the agency" within the meaning of 42 U.S.C. § 1437d(j)(3)(A)(v).
102. This Agreement shall not be construed to limit the rights of the United States (including but not limited to HUD, EPA and SDNY) to seek relief under the Housing Act or under other federal laws or regulations. The United States reserves all legal and equitable remedies to address any potential imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, NYCHA's conduct, whether related to matters described herein or otherwise.
103. In any subsequent administrative or judicial proceeding initiated by the United States (including but not limited to HUD, EPA and SDNY) for injunctive relief, civil penalties, or other appropriate relief against NYCHA, NYCHA shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the Complaint or addressed in the Agreement.
104. This Agreement is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. This Agreement does not remove any responsibility of NYCHA for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits, and NYCHA's compliance with this Agreement shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. HUD and SDNY do not, by entering into this Agreement, warrant or aver in any manner that NYCHA's compliance with any aspect of this Agreement will result in compliance with any provisions of federal, state, or local laws, regulations, or permits.
105. This Agreement does not limit or affect the rights of the United States (including but not limited to HUD, EPA and SDNY) against any third parties not

party to this Agreement (including any present or former employees, officers, or board members), nor does it limit the rights of third parties, not party to this Agreement, against NYCHA, except as otherwise provided by law.

XVIII. Litigation Claims

106. HUD and SDNY agrees that within 14 days of appointment of the Monitor SDNY will file appropriate papers with the U.S. District Court to obtain dismissal, without prejudice, of the Complaint.
107. NYCHA agrees not to object to a motion to reinstate any Count of the Complaint in the event of breach of this Agreement by NYCHA. In such a case, NYCHA will not assert any defense of laches or untimeliness with respect to such Count. NYCHA hereby agrees to toll the running of any limitations period with respect to any civil claims asserted by the United States based on the allegations of the Complaint.

XIX. Signatories/Service

108. Each undersigned representative of HUD, NYCHA, and the City certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement.
109. This Agreement may be signed in counterparts, and its validity shall not be challenged on that basis.

XX. Integration

110. This Agreement, including Exhibits A through C, shall express the entire agreement of the parties hereto, written or oral with respect to resolving the substantial default of NYCHA.
111. This Agreement shall not supplant nor supersede any obligations of NYCHA under the ACC or any other agreements between NYCHA and HUD.
112. If there is any conflict between this Agreement and a provision of any other existing agreement, HUD shall in its sole discretion determine which provisions shall prevail.

XXI. Information Collection and Retention

113. The United States and its representatives, including attorneys, contractors, and consultants, will have continued access to NYCHA data and personnel to the extent necessary (in the United States' unreviewable discretion) for oversight of implementation of the Agreement.
114. Until one year after the termination of this Agreement, NYCHA and the City shall retain, and shall instruct its contractors and agents to preserve, all non-

identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) that relate in any manner to NYCHA's and the City's performance of its obligations under this Agreement and that meet criteria specified by the Monitor, who shall consider cost and the purposes of this Agreement in setting forth such criteria.

115. At the conclusion of the information-retention period provided in the preceding paragraph, NYCHA and the City shall notify HUD, EPA, and SDNY at least 90 days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding paragraph and, upon request by HUD or SDNY, NYCHA and the City shall deliver any such documents, records, or other information to the United States.
116. This Agreement in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States (including HUD and EPA) pursuant to applicable federal laws, regulations, or permits, nor does it limit or affect any duty or obligation of NYCHA and the City to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.
117. NYCHA and the City agree that the United States may retain and use documents and information produced to it by NYCHA pursuant to Civil Investigative Demand or otherwise in the course of the United States' investigation of this matter, and in particular waives any limitation on the retention or use of such documents and information contained in 31 U.S.C. § 3733.
118. Nothing in this Agreement limits any document retention obligations that NYCHA or the City may have under applicable law or regulation.

XXII. June 11, 2018 Consent Decree

119. The June 11, 2018 Consent Decree is null and void, except with respect to the admissions contained in paragraph 7 of the Consent Decree, which NYCHA ratifies and reaffirms.

XXIII. Construction and Severability

120. Each party has participated in the drafting and preparation of this Agreement and this Agreement shall be construed as a whole, according to its fair meaning and not for or against any party.
121. If any part of this Agreement is found to be contrary to law, that part may be severed from the Agreement and the remainder of the Agreement shall remain in full force and effect. The remaining Agreement shall be construed as far as is lawful and practicable to enforce the overall intent of the original Agreement.

FOR THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:

Dated: January 31, 2019
New York, New York

BENJAMIN S. CARSON, SR., M.D.
Secretary
*U.S. Department of Housing and Urban
Development*

451 7th St., SW
Washington, DC 20410

FOR THE UNITED STATES OF AMERICA:

Dated: January 31, 2019
New York, New York

GEOFFREY S. BERMAN
United States Attorney
Attorney for the United States

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MÓNICA P. FOLCH
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taliam.kraemer@usdoj.gov
sharanya.mohan@usdoj.gov

FOR NYCHA:

Dated: January 31, 2019
New York, New York

Stanley Brezenoff
Chair and Chief Executive Officer
New York City Housing Authority

250 Broadway
New York, NY 10007
Tel.: (212) 306-3434
Email: stanley.brezenoff@nycha.nyc.gov

FOR THE CITY OF NEW YORK:

Dated: January 31, 2019
New York, New York

ZACHARY W. CARTER
Corporation Counsel
Attorney for the City of New York

GEORGIA PESTANA
First Assistant Corporation Counsel

100 Church Street
New York, New York 10007
Tel.: (212) 356-1000
Fax: (212) 356-1148
Email: zcarter@law.nyc.gov
gpestana@law.nyc.gov

EXHIBIT A – REQUIREMENTS FOR LEAD-BASED PAINT

A. In General

1. Terms used with respect to lead-based paint compliance but not expressly defined herein shall have the meaning contained in 24 C.F.R. part 35, and 40 C.F.R. part 745.
2. NYCHA shall comply with 24 C.F.R. part 35, and 40 C.F.R. part 745.
3. Nothing herein limits NYCHA's obligations under any other federal, state, or local laws or regulations governing lead-based paint or lead-based paint hazards.

B. Priority Action Units and Common Areas

4. No later than 30 days after execution of this Agreement, NYCHA shall provide the United States the following:
 - a. A report identifying all developments that meet the following requirements: (i) they were built prior to January 1, 1978, and (ii) they are not exempt pursuant to 24 C.F.R. § 35.115, as a result of an inspection, an abatement, or otherwise (the "Lead Paint Developments"). Such report will identify each unit (including each "child-occupied facility") within such Lead Paint Developments that is not exempt pursuant to 24 C.F.R. § 35.115 ("Lead Paint Unit").
 - b. A report (the "Immediate Action List") identifying the subset of Lead Paint Units that NYCHA has reason to believe are occupied or routinely visited by a child under the age of 6. Routine visiting shall be determined in conformance with the first sentence of the definition of child-occupied facility at 40 C.F.R. § 745.83.
5. Within 30 days of execution of this Agreement, NYCHA shall comply with the following requirements:
 - a. Perform at least one visual assessment in accordance with 24 C.F.R. § 35.1355 of each Lead Paint Unit on the Immediate Action List, except insofar as that Lead Paint Unit received a compliant visual assessment within the preceding 12 months; and
 - b. Eliminate any lead-based paint hazards in Lead Paint Units identified on the Immediate Action List through the performance of interim controls in accordance with 24 C.F.R. § 35.1330, or through abatement in accordance with 24 C.F.R. § 35.1325.
6. No later than 90 days after execution of this Agreement, NYCHA shall submit to the United States documents sufficient to show NYCHA's basis for claiming that particular pre-1978 developments are exempt pursuant to 24 C.F.R. § 35.115. To the extent that

HUD and SDNY thereafter notify NYCHA that they reject that determination, such developments, units and common areas will no longer be considered by NYCHA to be exempt pursuant to 24 C.F.R. § 35.115. If HUD and SDNY (a) object to the exemption for a particular development, unit, or common area, and (b) the lack of exemption would have led to the inclusion of additional units or common areas on the Immediate Action List, NYCHA shall within 30 days thereafter comply with paragraph 5 as to such additional apartments.

7. NYCHA may conduct a new lead-based paint inspection (in accordance with 24 C.F.R. § 35.1320(a)) of any Lead Paint Unit on the Immediate Action List. If that inspection determines that no lead-based paint is present in the unit, NYCHA may remove the unit from the Immediate Action List if NYCHA provides the inspection report to the United States and to the resident household within seven days of NYCHA's receipt of the inspection report, and the United States does not object to the removal of the unit from the Immediate Action List within 14 days of receiving such inspection results.

C. Abatement of Lead-Based Paint

8. Within five years of the execution of this Agreement, NYCHA shall abate all lead-based paint at the Harlem River Houses and the Williamsburg Houses (the "Early Abatement Developments") in accordance with 40 C.F.R. part 745 subpart L.
9. Within ten years of the execution of this Agreement, NYCHA shall abate, in accordance with 40 C.F.R. part 745 subpart L, all lead-based paint in 50% of apartment units that contain lead-based paint, and interior common areas that contain lead-based paint in the same building as those units. Units and interior common areas in the Early Abatement Developments shall be included in calculating compliance with the requirements in this paragraph.
10. Within fifteen years of the execution of this Agreement, NYCHA shall abate, in accordance with 40 C.F.R. part 745 subpart L, all lead-based paint in 75% of apartment units that contain lead-based paint, and interior common areas that contain lead-based paint in the same building as those units. Units and interior common areas abated pursuant to paragraphs 8 and 9 shall be included in calculating compliance with the requirements in this paragraph.
11. Within twenty years of the execution of this Agreement, NYCHA shall abate, in accordance with 40 C.F.R. part 745 subpart L, all lead-based paint in 100% of apartment units that contain lead-based paint, and interior common areas that contain lead-based paint in the same building as those units.
12. NYCHA shall abate exterior common areas that contain lead-based paint. NYCHA shall develop an Action Plan setting forth an appropriate timeline for such abatement, prioritizing common areas posing a higher risk of exposure to children.

13. For purposes of paragraphs 8, 9, 10, 11 and 12, “common areas” and “abatement” shall have the meaning in 40 C.F.R. part 745, subpart L. However, with respect to abatement, the Monitor shall determine whether NYCHA will not be able to comply with the ongoing maintenance, reevaluation, and other obligations associated with using enclosure, encapsulation, encasement, or other abatement measures that retain the lead-based paint in place (“alternative abatement methods”) (24 C.F.R. §§ 35.1120(c) and 35.1355, and see the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines), especially chapters 6 and 11 through 15), and if the Monitor determines that NYCHA will not be able to, then “abatement” in paragraphs 8, 9 and 11 shall mean the removal of lead-based paint in compliance with 40 C.F.R. part 745 subpart L, but shall not include alternative abatement methods, and NYCHA shall abate by removal any lead-based paint that had been abated by an alternative abatement method. After a finding by that Monitor that NYCHA will not be able to comply with its obligations associated with using alternative abatement methods, upon the Monitor subsequently finding that NYCHA will be able to comply, NYCHA may use such methods along with abatement methods that remove lead-based paint.
14. In performing any lead paint abatements, whether pursuant to paragraphs 8 and 9 or otherwise, NYCHA shall comply with the following, in addition to other legal requirements:
 - a. NYCHA shall ensure that a certified supervisor is onsite or otherwise available in accordance with 40 C.F.R. § 745.227(e).
 - b. NYCHA shall notify EPA of lead-based paint abatement activities electronically using EPA’s Central Data Exchange (CDX) in accordance with 40 C.F.R. § 745.227(e)(4)(vii).
 - c. NYCHA shall prepare and implement written occupant protection plans for all abatement projects in accordance with 40 C.F.R. § 745.227(e)(5).
 - d. NYCHA shall specify methods of collection and lab analysis in accordance with 40 C.F.R. § 745.227(f).
 - e. NYCHA shall ensure that a clearance examination is performed, and a clearance examination report provided by a lead-based paint inspector/risk assessor certified and licensed as applicable for the property location, in accordance with 40 C.F.R. § 745.227(e)(8)-(9). The lead-based paint inspector/risk assessor must be independent of the lead-based paint abatement firm, supervisor, and contractors performing the abatement work.
 - f. NYCHA shall ensure that the certified supervisor on each abatement project prepares an abatement report in accordance with 40 C.F.R. § 745.227(e)(10).

- g. NYCHA shall maintain records in accordance with 40 C.F.R. § 745.227(i) and 24 C.F.R. § 35.175.

D. Lead-Safe Work Practices

15. NYCHA shall comply with lead-safe work practice requirements set forth in the Lead Safe Housing Rule, 24 C.F.R. part 35, subparts B-R, and the Renovation, Repair, and Painting Rule, 40 C.F.R. part 745, subpart E, when directing or performing renovation (as that term is defined in 40 C.F.R. § 745.83) or maintenance work in Lead Paint Developments to which lead-safe work practices apply, including by:
 - a. Establishing and maintaining sufficient information in NYCHA's renovation and maintenance computer systems to readily identify renovation and maintenance projects involving work to which the lead-safe work practices regulations apply in accordance with 24 C.F.R §§ 35.1330, 35.1350 and 40 C.F.R. §§ 745.85, 745.89;
 - b. Ensuring that only properly trained and certified firms and workers are assigned to perform work to which lead-safe work practices apply in accordance with 24 C.F.R §§ 35.1330, 35.1350 and 40 C.F.R. §§ 745.85, 745.90;
 - c. Obtaining and maintaining certification as a certified renovation firm if any of the workers described in this paragraph are NYCHA employees, and the work they do is covered by 40 C.F.R. part 745, subpart E (or, if applicable in the future, the appropriate provisions of subpart Q), in accordance with 40 C.F.R. §§ 745.81, 745.89;
 - d. Ensuring supplies necessary to perform lead-safe work practices in accordance with 24 C.F.R § 35.1350 and 40 C.F.R. § 745.85 are readily available to trained and certified workers;
 - e. Ensuring that firms and workers assigned to perform renovation or maintenance work to which lead-safe work practices apply use the RRP Renovation Checklist and establish and maintain records necessary to demonstrate compliance with the RRP Rule in accordance with 40 C.F.R. § 745.86;
 - f. Ensuring that residents of units and developments in which renovation or maintenance work to which lead-safe work practices apply will be performed are informed of the work to be performed and the risks involved in accordance with 24 C.F.R § 35.1345 and 40 C.F.R. §§ 745.84 and 745.85;
 - g. Retaining records demonstrating compliance with the regulations set forth at 24 C.F.R. § 35.125 and 40 C.F.R. § 745.84.

- h. Containing or causing to be contained any work area to which lead-safe work practices will apply by isolating the work area and waste generated so that no dust or debris leaves the work area in accordance with 24 C.F.R. § 35.1345 and 40 C.F.R. § 745.85(a);
- i. Containing, collecting, and transporting waste from the renovation in accordance with 40 C.F.R. § 745.85(a)(4);
- j. Performing cleanup of any work area to which lead-safe work practices apply until no dust debris or residue remains in accordance with 24 C.F.R. §§ 35.1345, 35.1335 and 40 C.F.R. § 745.85(a) and (b), and conducting and passing a clearance examination in accordance with 24 C.F.R. § 35.1340 (including follow-up as required by that section's subsection (e) after clearance failure(s)), as provided by 40 C.F.R. § 745.85(c).

E. Visual Assessments

- 16. Each calendar year and at unit turnover, NYCHA shall perform visual assessments in Lead Paint Developments in accordance with 24 C.F.R. § 35.1355(a)(2).
- 17. Within one year of the execution of this Agreement, NYCHA shall control deteriorated lead-based paint identified by visual assessments in compliance with 24 C.F.R. § 35.1120(b)(1) and (2); except that for a visual assessment performed in an apartment unit that has not had a previous compliant visual assessment within the preceding twelve months, all corrections of lead-based paint hazards shall be made within thirty days of the visual assessment.

F. Biennial Risk Assessment Reevaluations

- 18. Within two years of the execution of this Agreement, NYCHA shall conduct risk assessment reevaluations of all NYCHA housing that contains lead-based paint in accordance with 24 C.F.R. § 35.1355.

G. EIBLL/EBLL-Triggered Risk Assessments, Investigations and Abatement

- 19. Within 30 days of appointment of the Monitor, NYCHA shall provide the Monitor a list (the "EIBLL/EBLL-Triggered Risk Assessment List") of all units, common areas servicing such units, and developments in which neither an environmental investigation nor a risk assessment was performed since the date of: (a) the reporting to NYCHA (if on or after July 13, 2017) of a case of a child under age 6 with an elevated blood lead level (EBLL) (as those terms are defined in 24 C.F.R. § 35.110, as amended by 82 Fed. Reg. 4151 (Jan. 13, 2017)) living in such unit and development, or (b) the reporting to NYCHA (if before July 13, 2017) of a case of a child with an elevated blood lead level (EIBLL) (as those terms were defined in 24 C.F.R. § 35.110, prior to amendment by 82 Fed. Reg. 4151 (Jan. 13, 2017)) living in such unit and development.
- 20. After providing the Monitor the EIBLL/EBLL-Triggered Risk Assessment List, within a timeframe acceptable to the Monitor, NYCHA shall confirm that the New York City

Department of Health and Mental Hygiene (“NYC DOHMH”) has performed an environmental investigation in accordance with 24 C.F.R. §§ 35.110, 1130, in any unit and common areas servicing that unit identified in the EIBLL/EBLL-Triggered Risk Assessment List. To the extent the NYC DOHMH has not performed an environmental investigation in accordance with 24 C.F.R. §§ 35.110, 1130, in any unit and common areas servicing that unit identified in the EIBLL/EBLL-Triggered Risk Assessment List, NYCHA shall perform such environmental investigation within a timeframe acceptable to the Monitor.

21. After issuing or receiving the report of the environmental investigation, within a timeframe acceptable to the Monitor, NYCHA shall complete the abatement of identified lead-based paint hazards in accordance with 24 C.F.R. §§ 35.1130(c) and 35.1325.
22. NYCHA shall perform risk assessments for all other units in the building in which a child under age 6 resides or is expected to reside on the date lead-based paint hazard reduction under Paragraph 21 is complete, and common areas servicing those units in the developments identified in the EIBLL/EBLL-Triggered Risk Assessment List, within a timeframe acceptable to the Monitor.

H. EBLL Reporting

23. NYCHA shall report to HUD each confirmed case of a child with an elevated blood lead level within 5 business days of being so notified in accordance with 24 C.F.R. § 35.1130.
24. No later than 60 days after the execution of this Agreement, NYCHA shall enter into a written agreement with the NYC DOHMH resolving any barriers to the sharing of information relating to resident children’s blood lead levels necessary for NYCHA to make disclosures to HUD in accordance with paragraph 23 and 24 C.F.R. § 35.1130, and shall provide a copy of such agreement to the United States.
25. NYCHA shall report to the Monitor and to the United States any NYC DOHMH Commissioner order to abate lead-based paint within five days of receiving such order.
26. On and after the Effective Date, to the extent NYC DOHMH has not performed an environmental investigation of any unit in which a child with an elevated blood lead level has been reported within 15 days of identifying such unit, NYCHA shall perform an environmental investigation of that unit and common areas servicing that unit and perform abatement of any lead-based paint hazards within thirty days in accordance with 24 C.F.R. §§ 35.1130(c) and 35.1325.

i. Lead Disclosure

27. From and after the Effective Date, NYCHA shall provide residents signing new leases (or, where required by regulation, renewal leases) with information about the presence of lead-based paint and lead-based paint hazards in their apartments and developments in accordance with the Lead Disclosure Rule, 24 C.F.R. part 35, subpart A; 40 C.F.R. part 745, subpart F.

- 28. NYCHA shall ensure that physical copies of all materials required to be disclosed by the Lead Disclosure Rule are present, available for inspection, and permanently maintained at the management office for each development.
- 29. NYCHA shall ensure that electronic copies of all materials required to be disclosed by the Lead Disclosure Rule are available to residents through an internet-based portal.

ii. Certifications Regarding Lead Paint

- 30. NYCHA shall provide the United States and the Monitor certifications describing its compliance as follows:
 - a. No later than 120 days after execution of this Agreement, NYCHA shall submit to the United States a statement describing its compliance with paragraphs 4-6. In its submission to the United States, NYCHA shall specify the method(s) used to correct any lead based paint hazards identified on the Immediate Action List and certify that such corrections were performed in compliance with the Lead Safe Housing Rule, Renovation, Repair and Painting Rule, and Abatement Rule, as applicable, and that residents were notified of the corrections in compliance with the Lead Safe Housing Rule.
 - b. Six months after the Effective Date, and every six months thereafter, NYCHA shall provide the United States and the Monitor a certification describing its compliance with paragraphs 8 to 15.
- 31. To the extent that compliance is not yet due under a particular provision at the time that the certifications described in paragraph 30 are to be provided, the certification shall describe NYCHA's progress achieving compliance when due, and detail NYCHA's plan for achieving compliance promptly.
- 32. Upon the request of the United States or the Monitor, NYCHA shall promptly submit documents underlying a certification.

iii. Other Obligations

33. In addition to meeting the requirements of paragraphs 1 to 32, and except where otherwise provided in an approved Action Plan, NYCHA shall perform the following tasks:

a.	NYCHA will display a sample kit of the supplies needed to complete an RRP work order in all 139 storerooms by January 31, 2019.
b.	NYCHA will issue a minimum of one kit of RRP supplies to RRP-certified staff daily by February 28, 2019.

c.	NYCHA will enhance its work order system to automatically create a “dust wipe” work order if a RRP work order is generated by February 28, 2019.
d.	NYCHA will select a vendor to supplement the EPA’s RRP training with practical training on dust control measures to simulate a range of working conditions by March 31, 2019 and train substantially all RRP-certified staff by December 31, 2019.
e.	NYCHA will provide all Resident Building Superintendents, Assistant Resident Building Superintendents, and Property Managers with training in RRP practices on an ongoing basis.
f.	NYCHA will train all maintenance workers to perform lead-based paint visual assessments by September 30, 2019.
g.	NYCHA will secure additional, dedicated painting contracts for the Healthy Homes Department to exclusively focus on remediation by December 31, 2019.

EXHIBIT B – REQUIREMENTS FOR HEAT, MOLD, ELEVATORS, PESTS, AND ANNUAL INSPECTIONS

A. Heat

i. Provision of Heat

1. As set forth in paragraphs 2 and 3 below, NYCHA will comply with N.Y.C. Admin. Code § 27-2029(a) (the “legal limits”), which as of the Effective Date require NYCHA to maintain the following temperatures in apartments between October 1 and May 31 (the “Heating Season”):

- a. between the hours of 6:00 a.m. and 10:00 p.m., a temperature of at least 68 degrees Fahrenheit whenever the outside temperature falls below 55 degrees; and
- b. between the hours of 10:00 p.m. and 6:00 a.m., a temperature of at least 62 degrees Fahrenheit.

2. By and after October 1, 2024, NYCHA will ensure that, during any given Heating Season:

- a. no more than 15% of occupied apartments, as measured according to procedures established in an Action Plan which may include a reliable sampling method, shall have an occasion in which the temperatures fall below the legal limits, and
- b. the temperature shall not fall below the legal limits on more than three separate occasions in a given unit.

ii. Identification of Heating Failures

3. Within 90 days of the Effective Date of this Agreement, for those developments which are already furnished with electronic temperature reading devices, NYCHA will institute and maintain a system that identifies all apartments in which such devices indicate a violation of the City Code heating requirements, and identifies the inside and outside temperatures associated with such violation.

4. This information will be available to all NYCHA personnel responsible for heating and to all development managers.

5. This information will be fully available to the Monitor, HUD, and SDNY.

6. An appropriate mechanism for disclosing this information to the public shall be provided in an Action Plan.

7. By December 31, 2020, NYCHA will have installed electronic temperature monitoring sufficient to provide NYCHA a comprehensive understanding of heating conditions in 44

developments, which shall include electronic temperature monitoring in no fewer than 30% of NYCHA apartments in such developments. A schedule shall be established in an Action Plan with deadlines by which NYCHA will install such monitoring systems in the remainder of NYCHA's developments.

iii. Response to Heating Failure

8. By October 1, 2019, NYCHA shall establish an Action Plan that identifies, for each development, how NYCHA will respond to heating outages, taking into account resident populations, historical data about prior outages, the availability of on-site and remote maintenance personnel, and response times. The plan shall include provisions for alternative heated community spaces for heating outages that are expected to last for a substantial duration. The plan shall also address NYCHA's policies for closing out work orders when the resident is not available at home or otherwise does not provide access to his or her apartment to resolve a heating outage. The plan shall be made available to the residents and posted online.

9. Starting with the Heating Season beginning October 1, 2019, NYCHA will:

- a. Consistent with its previously stated goal, restore heat to units affected by a heating shortage within an average of 12 hours.
- b. During the Heating Season, for 85% of heating shortfalls, NYCHA will restore heat to affected units within 24 hours, and in no event more than 48 hours. NYCHA may restore heat through the use of temporary replacement heating systems that comply with the N.Y.C. Admin. Code.
- c. In any event in which heat is unable to be restored to a particular unit within 12 hours, appropriate NYCHA personnel distinct from the NYCHA personnel responsible for the heat restoration, as identified in an Action Plan, shall undertake an investigation to determine the root cause(s) of such initial failure of the heating system and the failure to achieve the restoration of service within the timeframe, identify corrections to prevent or lessen the recurrence of such failures, and track the implementation of such corrective actions. Such information shall be retained in a central repository to which all applicable maintenance staff and management have access.

10. Starting with the Heating Season beginning October 1, 2024, NYCHA will:

- a. During the Heating Season, for 85% of heating shortfalls, NYCHA will restore heat to affected units within 12 hours, and in no event more than 24 hours. NYCHA may restore heat through the use of temporary replacement heating systems that comply with the N.Y.C. Admin. Code.
- b. In any event in which heat is unable to be restored to the affected units within 12 hours, the Quality Assurance Unit shall undertake an investigation to determine the root cause(s) of such initial failure of the heating system and the failure to achieve the restoration of service within

the timeframe, identify corrections to prevent or lessen the recurrence of such failures, and track the implementation of such corrective actions. Such information shall be retained in a central repository to which all applicable maintenance staff and management have access.

11. A failure to timely restore heat will not constitute violation of paragraphs 9 and 10 if NYCHA documents that the resident has failed to provide access to the unit; provided, however, that this paragraph only applies to the extent that NYCHA has provided the resident with the opportunity to authorize access in his or her absence.

12. A failure to timely restore heat will not constitute a violation of paragraphs 9 and 10 if the failure is caused by forces outside of NYCHA's control other than the weather, if NYCHA establishes to the satisfaction of the Monitor that they were the cause of the failure and that such cause was outside NYCHA's control. Nothing in this paragraph affects the provision in paragraph 11.

13. Beginning on and after the Effective Date:

- a. Within two hours of NYCHA learning of any unplanned heating outage, NYCHA shall notify all affected tenants by robocall. NYCHA shall also post notice of the outage within the common areas of the affected building and on NYCHA's website.
- b. For any planned heating shortfall, NYCHA will provide affected tenants with at least 48 hours' advanced notice. Such notice will be provided via robocall, and shall be posted in the common areas of the affected building and on NYCHA's website.
- c. NYCHA shall give the Monitor 48 hours' advanced notice of any planned heating shortfall, and shall notify the Monitor within 2 hours of receiving notice of any unplanned heating shortfall. The notice shall be provided in the manner prescribed by the Monitor.

iv. Other Obligations

14. In addition to meeting the requirements of paragraphs 1 to 13, and except where otherwise provided in an approved Action Plan, NYCHA shall perform the following tasks:

a.	By March 31, 2019, NYCHA will create a 24/7 Heat Desk which will monitor heating metrics and dispatch staff to correct deficiencies during the Heating Season.
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b.	NYCHA will modernize the Building Management Systems ¹ at 44 developments by December 31, 2019. Modernization will include introducing indoor temperature sensors.
c.	<p>NYCHA will replace or address approximately 500 boilers by 2026, as follows:</p> <ul style="list-style-type: none"> • 297 boilers will be replaced by December 31, 2026 based on the current capital plan (70 boiler within 3 years plus another 63 within five years). NYCHA will partner with the School Construction Authority (SCA) to reduce the overall timeframe for the planned capital work. The partnership with the SCA could accelerate NYCHA’s planned capital work by a year. NYCHA could further increase the number of heating plants replaced or accelerate the pace of replacement with additional funding, regulatory relief, and statutory changes. In parallel with boiler replacement, NYCHA will evaluate the condition of a development’s entire heating-related capital needs, such as replacement of underground distribution systems, and take appropriate action. • NYCHA will address approximately 200 additional boilers through PACT through December 31, 2026. The developer selected to partner with NYCHA will replace or repair the boiler and accessory heating systems as needed.

B. Mold²

i. Mold Incidence and Recurrence

15. Within five years of the Effective Date, NYCHA shall comply with the following:

- a. For 85% of verified mold complaints, there shall not be a second verified mold complaint in the same unit or the same common area room or hallway within a 12-month period.
- b. No more than 15% of verified mold complaints shall be for mold covering 10 or more square feet in a unit or common area that is visible from within such unit or common area, unless NYCHA can document to the satisfaction of the Monitor that after having been advised by NYCHA to report incidences of mold, the resident did not report the incidence of mold until after the mold had reached this extent.
- c. Mold shall not appear more than three times in a year in any single unit.

¹ Building Management Systems are computerized controls that provide automation, remote monitoring, and remote control for building mechanical systems, such as boiler plants, ventilation, and common area lighting.

² “Mold” shall be defined as all species of microscopic fungi that grow in the form of filaments composed of many cells, and shall be limited to mold that has grown enough to be visible to the unaided eye.

16. For purposes of NYCHA's obligations under paragraph 15, small amounts of incidental mold growth that would be expected to occur in any household with average moisture conditions that may be remediated by the resident as part of standard housekeeping shall be excluded, such as limited mildew on shower curtains or around the caulking of a bathtub, so long as the character of this mold is properly documented and photographed by NYCHA.

ii. Remediation of Mold and Moisture

17. Within two years of the Effective Date:

- a. For 95% of instances in which a resident reports a mold complaint that is subsequently verified or NYCHA identifies mold in a unit, consistent with the NYCHA Standard Procedure SP 040:14:1, Mold/Mildew Control in NYCHA Residential Buildings, Revised December 19, 2018, within five business days of the resident reporting or NYCHA identifying mold in the unit, NYCHA shall prepare and provide a written plan for addressing the root cause to the resident. NYCHA may meet this standard by mailing a copy of the written plan to the resident via U.S. or electronic mail within the five day period.
- b. For 95% of instances in which a resident reports a mold complaint that is subsequently verified or NYCHA identifies mold in a unit, consistent with the NYCHA Standard Procedure SP 040:14:1, Mold/Mildew Control in NYCHA Residential Buildings, Revised December 19, 2018, within five business days of the resident reporting or NYCHA identifying mold in the unit, NYCHA shall remove mold that is visible from within the unit. In the alternative, NYCHA may comply with this standard by remediating the mold and its underlying root cause (i) within 7 days, for repairs that can be performed by a Maintenance Worker or Caretaker, or (ii) within 15 days, for repairs that must be performed by skilled trade workers or other specialized staff in one or more visits.
- c. For 95% of reports to NYCHA of floods, leaks from above, and other conditions that cause sustained or recurrent moisture to flow into a resident's unit or the walls of the unit, NYCHA shall abate the condition within 24 hours of a report of the condition to NYCHA, and NYCHA shall remove any standing water that resulted from such condition within 48 hours of the report.

18. A failure to meet the timeframes in subparagraphs (a) and (b) of paragraph 17 shall not constitute a violation of those standards if NYCHA documents that the resident has failed to provide access to the unit; provided, however, that this paragraph only applies to the extent that NYCHA has provided the resident with the opportunity to authorize access in his or her absence.

19. NYCHA will not close any mold, flood, or "leak from above" work orders as "Resident Not Home," including any such work orders that NYCHA has not yet verified.

iii. *Baez v. NYCHA*

20. NYCHA shall comply with the terms of orders in *Baez v. NYCHA*, No. 13 Civ. 8915, as they may be entered or revised by the Court.

C. Elevators

21. Within 120 days of the Effective Date, NYCHA shall establish an Action Plan that identifies, for each building that contains an elevator designed for resident use, how NYCHA will respond when all elevators are out of service at that building (a “no-service” condition). Such plan shall take into account the resident population of each building, any individuals with self-reported mobility impairments, historical data about prior outages or service disruptions, the availability of personnel to assist residents, the terms of any elevator support contract, and historical response and repair times. Such plans shall be made available to the residents and posted online.

22. Within 120 days of the Effective Date, NYCHA shall provide HUD and the Monitor with sufficient data to identify elevator service interruptions in the prior three years. This data shall be updated at least quarterly.

23. Within three years of the Effective Date, NYCHA shall comply with the following:

- a. 70% of buildings containing more than one elevator will have no more than one instance per year where all elevators are out of service (whether planned or unplanned) at the same time, and no such building shall have more than three instances in a year.
- b. 70% of elevators in all buildings shall have an unplanned outage no more than eight times per year, and no elevator shall have unplanned outages more than 15 times a year.

24. Within five years of the Effective Date, NYCHA shall comply with the following:

- a. 85% of buildings containing more than one elevator will have no more than one instance per year where all elevators are out of service (whether planned or unplanned) at the same time, and no such building shall have more than three instances in a year.
- b. 85% of elevators in all buildings shall have an unplanned outage no more than eight times per year, and no elevator shall have unplanned outages more than 12 times a year.

25. Notwithstanding anything else herein, NYCHA will take an elevator out of service where required for health and safety reasons.

26. An outage that NYCHA demonstrates to the satisfaction of the Monitor to be the result of an act of vandalism by a third party shall not be counted as an outage for purposes of paragraphs 23 and 24, provided that (i) the Monitor concludes that NYCHA used and continues to use best

efforts to prevent such vandalism in the affected building, and (ii) such outage is resolved within the response times set forth herein.

27. As of one year of the Effective Date, NYCHA shall have no planned outages that result in a no-service condition between the hours of 6 a.m. and 10 a.m. or between 3 p.m. and 8 p.m., except for planned elevator rehabilitation or replacement or outages mandated by another governmental agency or regulatory entity.

i. Response to Disruptions in Service

28. For the first year after the Effective Date, NYCHA shall reduce the duration of service outages by 10%, and 75% of no-service conditions shall be resolved within 18 hours of the time NYCHA learns of them. The response rate shall improve each year thereafter as determined by the Monitor and HUD based on the data NYCHA provides to the Monitor and HUD and the steps NYCHA has taken in executing its action plans.

29. Within five years of the Effective Date, NYCHA shall resolve all outages within the following timeframes:

a. For outages that result in a no-service condition:

- (i) 85% shall be resolved within 4 hours of NYCHA learning of such condition, and
- (ii) no no-service condition shall last more than 12 hours, unless the no-service condition is in a one-elevator building and results from either (A) an outage due to an elevator rehabilitation or replacement or (B) an outage for which the industry-accepted repair time is longer than 12 hours or that requires NYCHA to order unavailable parts.

b. For outages that do not result in a no-service condition:

- (iii) 85% shall be resolved within 10 hours of NYCHA learning of such condition, and
- (iv) no outage shall last more than 18 hours, unless the outage results from either (A) an outage due to an elevator rehabilitation or replacement or (B) an outage for which the industry-accepted repair time is longer than 18 hours or that requires NYCHA to order unavailable parts.

ii. Outage Identification and Notice

30. Within six months of the Effective Date, NYCHA will institute and maintain a system that identifies every elevator outage and the start and end times of such outages identified by remote monitoring systems, work-order records, or any additional sources of outage information,

and make that system accessible and available to all NYCHA personnel responsible for elevators and to other relevant personnel, including all development managers and the General Manager.

31. Within five years of the Effective Date, NYCHA will establish continuous remote monitoring in 70% of its elevators.

32. Within six months of the Effective Date, NYCHA will establish a system to provide residents of buildings affected by a planned outage 24-hours advanced notice, and to provide residents of buildings affected by an unplanned outage notice within two hours of NYCHA learning of the outage. Such notice shall include instructions regarding what assistance NYCHA has available for individuals with mobility impairments during the outage. Notice shall occur by robocall and via postings within the affected building and on NYCHA’s website.

33. NYCHA will provide the Monitor 24 hours advanced notice of any planned outage, and shall notify the Monitor of any unplanned outage within two hours of NYCHA learning of the outage. Notice shall occur in the method prescribed by the Monitor.

iii. Other Obligations

34. In addition to meeting the requirements of paragraphs 15 to 33, and except where otherwise provided in an approved Action Plan, NYCHA shall perform the following tasks:

a.	NYCHA will adopt a new seven-day, extended schedule for caretakers to enable more frequent cleaning of elevator door tracks at the start of each shift.
b.	NYCHA will replace or address at least 425 elevators by 2024: <ul style="list-style-type: none">• 275 elevators will be replaced by December 31, 2024 through its capital plan. (108 within three years plus another 167 within five years)• NYCHA will transfer 150 additional elevators to third-party management through the PACT program by December 31, 2024. The developer selected through PACT will replace elevators as needed in buildings under its purview.

D. Pests³

i. Pest Population Reduction

35. Within six months of the Effective Date, the Monitor in consultation with NYCHA shall establish reasonable protocols by which Integrated Pest Management (“IPM”) professionals shall develop and provide reliable estimates, at least quarterly, of the pest populations in each

³ “Pest” means rats, mice, cockroaches, and bedbugs.

NYCHA development. NYCHA shall promptly publish these figures, by development and pest type, on its website.

36. Within three years of the Effective Date, NYCHA shall achieve a 50% reduction of its rat population across its portfolio, a 40% reduction in its mice population across its portfolio, and a 40% reduction in its roach population across its portfolio. By that time, NYCHA shall also achieve a percentage reduction in its bedbug population across its portfolio, to be determined by the Monitor.

37. Within five years of the Effective Date, NYCHA shall achieve a further 50% reduction in each of its pest populations across its portfolio.

ii. Response to Resident Complaints

38. Within two years of the Effective Date, NYCHA shall:

- a. respond to 75% of all rat complaints within two business days, and to all rat complaints within five days;
- b. respond to 75% of all other pest complaints within seven days, and to all other pest complaints within ten days;
- c. apply effective pest control methods (in compliance with applicable law including the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C § 136 *et seq.*), to address any verified complaints within 7 days; and
- d. provide expedited response and application of pest control methods in cases where NYCHA is aware that a resident of the unit has asthma or another condition generally recognized as being caused or exacerbated by exposure to pest infestations (for example, other respiratory illness, immune deficiency/suppression, and/or effects of certain medical treatments). In an Action Plan, NYCHA and the Monitor shall establish a procedure for informing residents of a process through which residents may notify NYCHA if anyone residing in a unit has such a health condition.

39. Within five years of the Effective Date, NYCHA shall:

- a. respond to 90% of all rat complaints within two business days, and to all rat complaints within five days;
- b. respond to 90% of all other pest complaints within seven days, and to all other pest complaints within ten days.

40. If NYCHA does not respond to a pest complaint by a resident as required by paragraphs 38 and 39 but (a) provides the resident with the opportunity to authorize access in the resident's absence and (b) documents to the satisfaction of the Monitor that the resident has failed to

provide access to the unit, NYCHA will be deemed to have responded to the complaint for purposes of paragraphs 38 and 39 at the time of the first documented attempt to access the unit.

iii. Targeted Relief for Infestations

41. Within six months of the Effective Date, NYCHA shall, for any unit that has more than one pest infestation complaint verified by NYCHA staff within twelve months (a) cause a professional using IPM techniques to evaluate the unit and its immediately adjacent units and common areas within 30 days to identify any circumstances specific to that unit that may have contributed to such recurrence (including, but not limited to, unaddressed leaks, proximately located trash, or holes in walls), and (b) address, consistent with IPM principles, any such circumstances within the following 30 days.

iv. Integrated Pest Management

42. For purposes of this Agreement, IPM means, as described by EPA on its IPM Principles website, as of the Effective Date, “an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM programs use current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment. ... IPM takes advantage of all appropriate pest management options including, but not limited to, the judicious use of pesticides.”

43. Within twelve months of the Effective Date, NYCHA shall incorporate industry standard IPM practices, including Northeastern IPM Center (NortheastIPM.org and StopPests.org), Integrated Pest Management – A Guide for Affordable Housing, using the current edition at the time of the pest complaint (the edition as of the Effective Date was February 2014), as developed under an interagency agreement between HUD and the U.S. Department of Agriculture) for their Delivery of IPM Training to PHAs project; and current editions of other professional IPM resources as the Monitor may approve, into building operations in all NYCHA properties.

44. Within twelve months of the Effective Date, NYCHA shall send staff appropriately trained on IPM to respond to any pest complaint.

v. Daily Inspections and Trash Collection

45. Within six months of the Effective Date, NYCHA shall, no less than once every 24 hours, inspect the grounds and common areas of each building for cleaning and maintenance needs, including pests and trash, and correct such conditions. In particular, NYCHA shall ensure that trash on the grounds or common areas of each NYCHA building is collected and either removed from the premises or stored in a manner that prevents access by pests at least once every 24 hours.

vi. Other Obligations

46. In addition to meeting the requirements of paragraphs 35 to 45, and except where otherwise provided in an approved Action Plan, NYCHA shall perform the following tasks:

a.	NYCHA will install 8,000 door sweeps on basement doors with gaps by March 31, 2020
b.	NYCHA will install 50 rat slabs by December 31, 2020.
c.	NYCHA will dedicate 20 full-time exterminator staff to conduct ongoing comprehensive preventative maintenance treatments in public spaces for developments within the RMZ.
d.	NYCHA will install exterior bulk crushers or retrofit exterior compactors with auger bulk crushers at 10 developments by December 31, 2022

E. Annual Inspections

47. NYCHA will conduct annual inspections of developments. To complete its annual inspections, NYCHA shall either: (a) inspect each occupied unit each year; or (b) inspect its units pursuant to such other program of annual inspection that is consistent with HUD Public Housing Management E-Newsletter, Vol. 3, Issue (January 2012).

48. By and after ninety (90) days after the Effective Date of this agreement, annual inspections shall include having the person conducting the inspection perform any minor repairs during the inspection.

49. By one hundred and twenty days (120) after the appointment of the Monitor, NYCHA will submit an Action Plan to the Monitor for complying with the requirement to conduct annual inspections and perform minor repairs during such inspections. The Action Plan shall include procedures for (i) on-site completion of minor repairs during inspections, and (ii) the scheduling of other inspection-identified maintenance deficiencies for subsequent repair.

Exhibit C

**New York City Housing Authority
FY18-FY27 Expense & Capital (Mayoral Only)**

On the City Fiscal Year

Expense Items	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27	TOTAL FY18-FY27	
Funding												
City Tax Levy	\$ 127,424,609	\$ 123,768,582	\$ 124,365,233	\$ 114,720,995	\$ 114,761,919	\$ 73,307,856	\$ 73,307,856	\$ 73,307,856	\$ 73,307,856	\$ 73,307,856	\$ 73,307,856	\$ 974,580,618
Capital	\$ 483,236,000	\$ 423,575,000	\$ 179,122,000	\$ 86,000,000	\$ 136,000,000	\$ 136,000,000	\$ 136,000,000	\$ 136,000,000	\$ 136,465,000	\$ 137,944,000	\$ 1,990,342,000	
GRAND TOTAL	\$ 610,660,609	\$ 547,343,582	\$ 303,487,233	\$ 200,720,995	\$ 250,761,919	\$ 209,307,856	\$ 209,307,856	\$ 209,307,856	\$ 209,772,856	\$ 211,251,856	\$ 2,964,922,618	

*This table breaks out NYCHA's budget as of 5/10/18. Capital will be reforecast every fiscal year to account for what NYCHA has actually committed. The remaining funding is rolled to the following fiscal year or subsequent fiscal years.

APPENDIX 3

STAFFING OF THE OFFICE OF THE FEDERAL MONITOR

I. BART M. SCHWARTZ, FEDERAL MONITOR

Mr. Schwartz has served as a trial lawyer, corporate advisor, and CEO of a private company and a unit of a public company. For more than 30 years, he has managed complex investigations, prosecutions and security assessments and provided sophisticated investigative services to a wide array of clients. Mr. Schwartz is currently the chairman of Guidepost Solutions and serves on the board of HMS Holdings Corp. (NASDAQ:HMSY) where he is Chairman of the Compliance Committee and a member of its Audit Committee. He is also Chairman of the Board of Managers of Kadmon Corporation, LLC and is on the Board of Directors of the Stuyvesant High School Alumni Association.

Mr. Schwartz served as the Chief of the Criminal Division in the Southern District of New York. In that post, he had responsibility for overseeing prosecutions related to financial and business fraud, organized crime, narcotics, and other types of criminal activity.

Mr. Schwartz has served as the Monitor, Compliance Expert and/or Auditor in many high-profile matters throughout his distinguished career including the following:

- Appointed independent monitor by the U.S. Department of Justice to oversee General Motors' compliance with its deferred prosecution agreement from its recall of defective ignition switches;
- Appointed by the Department of Justice Anti-Trust Division to monitor an international shipping company (Hoegh Autoliners);
- Served as the independent compliance expert to a special committee of the Board of SAIC, arising out of the "CityTime" investigation conducted by the U.S. Attorney's Office for the Southern District of New York and the New York City Department of Investigation;
- Appointed monitor by the U.S. Attorney for the Southern District of New York in its Non-Prosecution Agreement with Deutsche Bank AG in a matter involving the bank's participation and implementation of fraudulent tax shelters;
- Appointed receiver of the Madoff-related Merkin hedge funds, which includes making investment decisions, managing litigation and investor relations;
- Selected by the CFTC and the Fraud Section of the Department of Justice to monitor BP trading activities, arising out of BP's settlement of illegal trading activities investigated by DOJ and CFTC;
- Appointed monitor of DHL, an international logistics company, by the U.S. Department of Commerce for issues relating to OFAC violations;

- Served as monitor of the Milberg Weiss LLP law firm under auspices of the Los Angeles U.S. Attorney's Office;
- Selected by the New York Metropolitan Transit Authority (MTA) to conduct a transparency assurance audit for the procurement of \$5 billion of new subway cars.

GUIDEPOST SOLUTIONS EMPLOYEES

Daniel D. Brownell, Deputy Monitor, Group Co-Leader, Heat and Elevators

Mr. Brownell has 35 years of experience in the field of investigations and law enforcement at the city, state and federal levels. He was a prosecutor in the New York County District's Attorney Office for two tours, his last position as Chief of the Rackets Bureau. He was a federal prosecutor in the United States Attorneys Office (EDNY). As a prosecutor, Mr. Brownell largely focused on white-collar and public integrity-related criminal investigations. He was also Chief Deputy Inspector General for the New York State Inspector Generals Office, and then Deputy Commissioner for Investigations in the New York City Department of Investigation. In those positions, Mr. Brownell oversaw the major investigations being conducted at each office, which generally involved public officials engaging in criminal conduct, and other various frauds effecting government. Most recently, he served as Commissioner with the New York City Business Integrity Commission (BIC). In this position, he was responsible for overseeing the operation of the agency which monitors, regulates and conducts investigations related to private carters and to the City's public wholesale food markets. During his tenure, he also worked to promote greater safety in the carting industry, as well as joining with the City's Sanitation Department to restructure the overall industry to be more environmentally efficient. Mr. Brownell's experience and knowledge will be brought to bear in his leadership of the monitoring team overseeing NYCHA's compliance with mandates relating to NYCHA's improvement of the delivery of reliable heat and safe elevator services to its residents.

Joseph Jaffe, Leadership Team, Group Leader Management, Group Co-Leader Leader, Organizational Plan/Management, Group Co-Leader Compliance, Environmental Health & Safety, Quality Assurance

Throughout his career, Mr. Jaffe has served as an IPSIG, Integrity Monitor and Outside Compliance Officer for numerous assignments. Prior to joining Guidepost, he was with a law firm specializing in construction litigation and oversight and was a Principal of that firm's forensic and investigative affiliate. Prior to those positions Mr. Jaffe had senior roles at three investigations and consulting firms, where he was appointed as a Monitor and Independent Consultant. He also was in the private practice of the law for a decade and served in multiple, municipal-counsel positions. His career started as a Law Clerk to the Hon. Frederick van Pelt Bryan, USDJ, S.D.N.Y. and he thereafter served in the U.S. Attorney's Office in the Southern District of New York where he held positions that included Deputy Chief of the Criminal Division, Chief of the Official Corruption Section and Administrative Assistant United States Attorney. He also served as Acting Chief Inspector of the

U.S. Drug Enforcement Administration. After leaving the U.S. Attorney's office, Mr. Jaffe was elected as District Attorney of Sullivan County, New York. Moreover, with Mr. Jaffe's management and organizational experience as a senior manager in government positions at both the federal and local municipal level, Mr. Jaffe brings to this group critical evaluative skills that will be brought to bear in his co-leadership of the monitoring group overseeing, evaluating and furthering NYCHA's efforts to meet the mandates of the Agreement relating to management and organizational enhancement, as well as to his co-leadership of the group dedicated to collaborating with and overseeing NYCHA's creation and implementation of Compliance and Environmental Health and Safety Departments and Quality Assurance Unit. Mr. Jaffe's decades of experience overseeing and conducting complex investigations, including in the context of monitorships and compliance engagements, ideally suits his role as co-leader of the monitoring team's investigative unit, which will be responsible for supporting the information gathering needs of the entire monitorship team.

Elan Parra, Leadership Team, Group Leader Management, Group Co-Leader, Organizational Plan/Management

Mr. Parra is an attorney with more than 15 years of experience working in both the public and private sectors. He began his career in New York City government as a prosecutor for the New York City Law Department. After several years, he remained at the Law Department and defended the NYPD in federal §1983 cases. He also served as a Chief of Staff at the Administration for Children's Services, and spent several years at the Mayor's Office, during both the Bloomberg and de Blasio administrations. Most recently he led successful affirmative investigations as the Director of the Mayor's Office of Special Enforcement. In that role he was tasked to combat the illegal hotel business and accrued industry expertise related to affordable housing. He has extensive investigation, litigation, and housing--related experience derived from his experience in both sectors. He has led investigations involving fraud schemes, kickbacks, and illegal activity. Mr. Parra's cases have included evaluating procedures to ensure adequate controls were in place to prevent mismanagement and waste; supervising an inquiry into a building trade union's improper payout of benefits and mishandling of members contributions; investigating allegations of illegal disposal of environmental contaminants. Mr. Parra's specific experience evaluating procedures to ensure adequate controls are in place to prevent mismanagement and waste will be brought to bear in his co-leadership of the monitoring group overseeing, evaluating and furthering NYCHA's efforts to meet the mandates of the Agreement relating to management and organizational enhancement as well as his co-leadership of the monitoring group overseeing, evaluating and assessing NYCHA's procurement processes and procedures and their impact on NYCHA's capacity to meet the capital construction and repair and maintenance goals set forth in the Agreement.

Thomas A. McShane, Leadership Team, Group Leader Management, Group Co-Leader, Elevators

Mr. McShane, an attorney with over 25 years of experience as an attorney specializing in ethics in government and compliance matters, including as Chief Counsel of the NYS Temporary Commission on Local Government Ethics and Staff Counsel for the NYS Commission Government Integrity, plays a key supervisory role in each of Guidepost's monitoring assignments. He spearheaded and directed the development of the company's Independent Monitoring Program and has worked with numerous governmental and quasi-governmental authorities on monitoring assignments, including the HDC, HPD, the New York City Department of Investigation, the Port Authority, the New York State Attorney General, the Federal Highway Administration and the Westchester County Solid Waste Commission. Mr. McShane also spent ten years in the private practice of the law and served for ten years as Chairman of the Westchester County Solid Waste Commission. Mr. McShane's experience leading Guidepost's most significant monitorship assignments over the last dozen years will be leveraged in designing and implementing monitorship initiatives across the range of focus areas. Mr. McShane will work collaboratively with Mr. Brownell overseeing NYCHA's compliance with mandates relating to NYCHA's improvement of the delivery of reliable heat and safe elevator services to its residents. He has designed and implemented investigative strategies to verify compliance with government mandates and regulations. As Co-Group Leader on the Investigations team, Mr. McShane will work collaboratively with Mr. Jaffe and Mr. Baldino to design and implement investigative plans to meet the overall needs of the monitoring team.

Anthony Collura, Leadership Team, Group Leader Management

Mr. Collura is an attorney with over 30 years of experience advising companies, Boards of Directors and Executive Officers. He serves as Guidepost's Legal Officer, Chief Operating Officer and Chief Financial Officer and is a member of its Board of Directors. Mr. Collura served as one of Guidepost's leaders on the General Motors Monitorship. Mr. Collura's expertise and experience will be directly relevant and important to the Monitor's on-going assessments of action plans proposed by NYCHA for implementation in compliance with the Agreement. He has experience in monitoring budgets and financial compliance plans, has provided critical advice to real estate, HVAC, construction and finance companies as well as governmental entities. Mr. Collura is a graduate of NYU's Stern School of Business and NYU School of Law. Mr. Collura's expertise and experience will be directly relevant and important to the Monitor's on-going assessments of action plans proposed by NYCHA for implementation in compliance with the Agreement. Mr. Collura is a graduate of NYU's Stern School of Business and NYU School of Law.

Dennis M. Walsh, Group Leader, Lead

Dennis Walsh is an experienced attorney and former prosecutor whose practice areas have included civil, criminal, and compliance matters as well as special fact investigations. His undertakings have required his application of expertise in a broad range of areas, including compliance, business administration and contracts, collective bargaining and administrative law, complex investigations, RICO and criminal law, ERISA and labor law. In 2010, Mr. Walsh was appointed the Review Officer in the matter of the District Council of Carpenters and was

responsible for enforcing the Agreement and other orders of the District Court in this long-standing civil RICO matter. In other notable matters, he was retained to conduct internal investigations and worked extensively on monitorship engagements, including, most recently, the monitorship of General Motors. Mr. Walsh previously served as an Assistant Deputy Attorney General with the New York State Attorney General's Organized Crime Task Force.

Bradley Dizik, Group Leader, Vermin/Garbage

Brad Dizik, an attorney who has worked directly with the Monitor on a number of compliance and monitoring engagements, advises companies, boards of directors and board committees, senior executives and government officials on sensitive matters, including corporate crises, restructurings, transactions and other disputes involving federal, state and foreign governments. He has extensive experience in internal investigations and corporate compliance and has worked on global compliance reviews. Mr. Dizik advises clients on corporate compliance and ethics programs and has led high-profile integrity monitor teams overseeing publicly held and private companies. Most recently, he served as a member of the independent monitoring leadership team to oversee General Motors' compliance with its deferred prosecution agreement deriving from its recall of vehicles with defective ignition switches. Previously, Mr. Dizik was an associate attorney in Weil, Gotshal & Manges LLP's White-Collar Criminal Defense/Investigations and Financial Institutions Regulatory practices.

Mary Stutzman, Group Co-Leader Compliance, Environmental Health & Safety, Quality Assurance and Group Co-Leader Investigations

Ms. Stutzman is a certified compliance professional who has worked on numerous federal, state and local mandated monitorships. On those assignments, she has spearheaded and assisted in the creation and implementation of compliance policies and procedures and the assessment of compliance activities in the securities, banking, energy and construction industries. Ms. Stutzman has worked on a number of monitorships of entities, where a major focus has been compliance with federal and state regulatory mandates. Ms. Stutzman brings the skills and knowledge acquired on those engagements to the group dedicated to collaborating with and overseeing NYCHA's creation and implementation of Compliance, Quality Assurance and Environmental Health and Safety Departments. At Guidepost, Ms. Stutzman has worked on several monitorships of construction companies, where a major focus has been compliance with M/W/DBE regulations, including the monitorship of Yonkers Contracting Company and the Assessment of the M/W/DBE Compliance Program of Railworks Corporation for the MTA.

Asha Muldro, Group Co-Leader, Resident Engagement

Asha Muldro, who was born and raised in the Bronx and lived in NYCHA housing, has 20 years of legal, investigatory, government and finance experience, and she recently co-headed the compliance and ethics program assessment for the federal monitorship of General Motors. She directs an array of investigative, compliance, and monitoring matters for corporations and individuals, including conducting proactive investigations into corporate and individual

wrongdoing. Ms. Muldro has directed federal law enforcement agencies in more than 100 criminal investigations, presented numerous cases to the grand jury, served as lead trial counsel on multiple bench and jury trials, and briefed and argued appeals before the Ninth Circuit Court of Appeals. Ms. Muldro's background and personal experience is ideally suited to co-leading the group that will liaise with the NYCHA resident community to assure an on-going, accurate assessment of the success of NYCHA efforts to correct the identified shortcomings in its operations and meet the requirements in the Agreement.

Alfred A. Baldino, CFE, Group Co-Leader, Investigations

Mr. Baldino spearheads Guidepost's investigative and intelligence work on its integrity monitoring assignments. He has worked on significant monitorships for Guidepost and its predecessor firm for the past 15 years. He is a 21-year veteran of the New York City Police Department where he attained the rank of Lieutenant and served in the Organized Crime Investigation Division (OCID), investigating traditional organized crime. In 1996, he was detailed to the New York City Trade Waste Commission. He ultimately became the Commanding Officer of the unit, subsequently renamed the New York City Business Integrity Commission. Mr. Baldino, as Co-Group Leader on the Investigations team, will coordinate and oversee the work of the field examiners and research analysts in support of the overall information and compliance verification needs of the monitoring team.

GUIDEPOST SOLUTION SUPPORT TEAM: Field Managers/Project Directors/Lead Investigators

The work of the Monitor, the Leadership Team and the Group Leaders will be supported not only by the subject matter experts identified above, it will be supported by a team of investigative and compliance professionals who will direct, oversee and participate in the collection and analysis of data and information bearing upon the mandates of the Agreement and NYCHA's efforts to comply with those mandates. This group of Guidepost professionals will include between eight to ten professionals, as needed, over the course of the first year of the monitorship. It is intended that members of this team of professionals will conduct their field examinations from offices located in the Borough Offices of NYCHA, where they will routinely conduct interviews with NYCHA managers and workers and collect NYCHA records regarding maintenance and repair work planned and on-going. Below is a list of some of the professionals who comprise this team; their credentials are representative of other members of the team:

Jonathan L. Newcomb, CFE, Project Manager

Mr. Newcomb has 18 years of experience as an investigator and project manager. His skills range from the management of construction project monitorships to complex research analytics to conducting and supervising field investigations. He has a particular expertise developing and implementing investigative plans that involve a variety of investigative resources and personnel. Mr. Newcomb's significant experience has included managing several of Guidepost's major

construction monitoring projects, including the Goethals Bridge Modernization Project; the World Trade Center Vehicular Security Center, Flood Mitigation and related projects; New York City's Rapid Repairs program following Superstorm Sandy; and the HPD/HDC Barrier Free Living, Arthur Avenue Residences, Randolph Houses South and Lynn's Place projects. These projects include the oversight of field labor activities; ensuring the integrity of billing processes; verifying the accuracy of a range of contractor submissions; and, investigating any indications of fraud, waste or abuse.

Kevin T. Brant, CFE, Project Director

Mr. Brant has extensive experience overseeing major integrity monitorships and conducting related investigations. He has more than 25 years of experience performing monitoring and compliance services. Prior to working for Guidepost, he was responsible for analysis activity on significant integrity monitorships, including the expansion and renovation of the Jacob K. Javits Convention Center, the divestiture of Gambino cut-work routes in New York's garment district, oversight of several Long Island garbage carters and activities within Local 100 of the Hotel Employees and Restaurant Employees International Union.

**GUIDEPOST SOLUTIONS SUPPORT TEAM: Field Examiners/Investigators/Research Analysts/
Asst PMS/Admin. Support**

The work of the Field Managers, Project Directors and Lead Investigator will be supported by a team of field examiners, research analysts and assistant project managers; below is a list of some of the professionals who comprise this team; their credentials are representative of other members of the team. The monitoring team as a whole will otherwise be supported by an administrative staff. Collectively, the group of professionals and administrative staff people captured in this section will include between fourteen to sixteen individuals, as needed, over the course of the first year of the monitorship.

Sean S. Inouye, Senior Investigator

Sean S. Inouye is a Certified Fraud Examiner and multidisciplinary senior investigator at Guidepost Solutions. He conducts investigative research, data analysis, and field investigations for a variety of projects and cases in numerous areas, including corporate due diligence and compliance, undercover assignments, forensic accounting investigations, integrity monitorships, and compliance monitorships. Mr. Inouye has been a member of the Guidepost Solutions integrity monitoring teams for the construction of affordable housing in New York City, the construction of headquarters space for a multi-national bank and construction related to the New York City Hurricane Sandy Rapid Repairs Program. Some of his responsibilities on these assignments have included conducting interviews of employees and executives; assessing complex information systems, corporate structures, and policies and procedures; administering employee surveys concerning safety culture and procedures; debriefing field investigators and construction inspectors; gathering, tracking and analyzing complex data and records; forensic auditing; and conducting fraud and theft investigations.

Elise Ryan, Senior Research Analyst

Ms. Ryan handles complex due diligence assignments, background investigations and asset searches. She has an extensive background conducting in-depth research and interpreting, managing, and analyzing data. Previously, Ms. Ryan spent seven years at the City of New York Business Integrity Commission. As a Senior Legal Analyst, she reported directly to the First Deputy Commissioner and General Counsel; liaised with other local and federal law enforcement agencies in developing cases for prosecution; and worked closely with the agency's attorneys to strategize on fact-finding for pending applications and investigations. Ms. Ryan also served in the role of Deputy Director of the Background Investigations Unit and Intelligence Analyst.

Hannah E. Meyers, Senior Research Analyst

Ms. Meyers manages investigative research projects and conducts, supervises, and consults on a variety of assignments including due diligence, litigation support, and investigations. She draws on years of conducting high-level research and investigations and providing assessments to guide decision-makers in law enforcement, intelligence, and government. Prior to joining Guidepost, Ms. Meyers served as a Senior Analyst and Team Leader with the Intelligence Bureau of the New York City Police Department where she specialized in matters involving the Middle East and North Africa. Ms. Myers also has experience conducting cyber research.

Scott Kisch, Senior Field Examiner

Mr. Kisch is a senior field investigator with Guidepost who has worked on Guidepost's major monitoring assignments for the last five years, including the General Motors monitorship. Prior to joining Guidepost, Mr. Kisch served as the department administrator at the New York University (NYU) Department of Public Safety where he oversaw Clery Act compliance and a range of programs concerning student safety. A Desert Storm veteran, Mr. Kisch began his career as an Officer in the U.S. Marine Corps specializing in military engineering operations and serving, in later years, as a public affairs officer. He has served also as a Commissioner on the New Jersey Motor Vehicle Commission, appointed and reappointed by governors of both major political parties.

Brian F. Carter, Senior Field Examiner

Mr. Carter is a senior field investigator with Guidepost who has worked on Guidepost's Major monitoring assignments for the past ten years, including being assigned to Guidepost's Integrity Monitoring Team at the World Trade Center Vehicular Security Center. Previously, Mr. Carter spent 20 years with the New York City Police Department and retired as a second-grade detective. Among his many investigative assignments, Mr. Carter was detailed to the City of New York Business Integrity Commission (BIC), where he served as an Intelligence Officer providing support to all regulatory background and investigations. He is proficient in computer database technology and its applicability to investigations and business oversight. His duties at BIC included the gathering of information and producing written reports to support regulatory oversight in the trucking and waste removal industry.

Rueben de la Concha, Senior Field Examiner

Mr. de la Concha is a seasoned investigative professional with a strong background in investigations and monitoring. Following a career as a Detective and Investigator with the New York City Police Department, he has worked for years in the private sector investigating potential fraud and non-compliance with New York State Labor Laws and the Federal Davis-Bacon and related Acts. In that work, Mr. de la Concha has worked closely with the New York State Department of Labor, the Office of the Comptroller of the City of New York, the Offices of the District Attorneys of New York City, the United States Department of Labor, the United States Attorney General and other entities and agencies to assure compliance and to investigate fraud. He has undertaken numerous high-level, confidential and complex investigations and integrity monitoring engagements including corporate compliance, and corporate investigations.

Robert Feliciano, Senior Field Examiner

Robert Feliciano has extensive experience gathering intelligence and analyzing findings. Mr. Feliciano gained his investigative experience during his 20-year career with the New York City Police Department where he served in various units with increased levels of responsibility. Mr. Feliciano's background also includes conducting investigations in support of integrity monitorships, including on behalf of Guidepost at the World Trade Center reconstruction site.

THIRD-PARTY SUBJECT MATTER EXPERTS

Anthony Coles, Counsel to the Monitor

Mr. Coles, with years of experience in New York City government, including having served as a Deputy Mayor, will provide the Monitor with general legal counsel, including with respect to HUD rules and regulations, federal law and New York City rules and regulations as they relate to mandates of the Agreement. He will also act as liaison with stakeholders in city government, including with the City Council, the Mayor's Office, and NYCHA. This function is intended, among other things, to ensure that communication between the City and the Monitor is characterized by a spirit and reality of cooperation so that the Monitor will have access to all of the information necessary for an accurate assessment of NYCHA's progress in moving toward the goals of the Agreement. Mr. Coles will also provide support and guidance to the Union Labor Group.

Edna Wells Handy, Leadership Team, Group Leader Management

Edna Wells Handy, an attorney and long-time New York resident, has gained a wide-spread reputation as a turnaround specialist. She has been appointed by three mayors and two governors to lead the turnaround of fractured police-community relations (Counsel to Police Commissioner Bill Bratton); a struggling child welfare institution (Acting Executive Director of Hale House); the distressed safety-net hospital system (VP and General Counsel to NYC Health +

Hospitals); and recently to a public housing system (Acting Chief Compliance Officer to NYCHA). She recently retired after 40 years of government service. Ms. Handy is a student of public housing and has lectured on the subject and was recently awarded her Master's Degree in Public Administration from Columbia University. Ms. Handy's experience in public housing makes her an important member of the Leadership Team, and her experience in government, including in senior management positions, makes her an important asset to the monitorship Procurement Group, in particular, evaluating and assessing NYCHA's procurement processes and procedures and their impact on NYCHA's capacity to meet the capital construction, repair and maintenance goals set forth in the Agreement. Ms. Handy's specific experience in public housing and her experience studying the challenges and operational failures in other city agencies makes her an important asset to the Monitor in his overall and on-going assessment of the viability of NYCHA's processes, procedures and plans to meet the goals set forth in the Agreement.

Carl Bornstein, Group Co-Leader, Compliance, Environmental Health & Safety, Quality Assurance

In addition to having served as Inspector General for the New York City Schools Construction Authority, Mr. Bornstein has been a member of independent monitoring teams for several nationally known corporations reporting to regulators, prosecutors, or courts about corporate compliance with agreements or orders following government investigations. Most recently, he served as a member of the independent monitoring team overseeing General Motors' compliance with its deferred prosecution agreement. In that capacity, Mr. Bornstein was specifically responsible for the compliance program developed to ensure the company's adherence to government regulations and industry standards. From July 2007 until December 2014, Mr. Bornstein led the Fortress Monitoring Group, a joint venture, which served as the Integrity Monitor for the \$3 plus billion construction of 1 World Trade Center reporting to the Inspector General of the Port Authority of New York & New Jersey. Based on his decades of experience in the compliance industry, both in a leadership position in city government and as private consultant, Mr. Bornstein brings to his co-leadership of the monitoring group dedicated to collaborating with and overseeing NYCHA's creation and implementation of Compliance, and Environmental Health and Safety Departments and the Quality Assurance Unit, the experience and expertise necessary to ensure that those departments, as designed, led and staffed, will function effectively and as intended by the Agreement.

Joseph Shuldiner, Senior Advisor/Group Co-Leader, Public Housing Financial/Funding

Mr. Shuldiner has a long and esteemed career in housing. He worked for the New York City Department of Housing Preservation and Development (HPD) for 13 years in a number of capacities prior to leading the New York City Housing Authority (NYCHA) as its General Manager. After leaving NYCHA he became the Executive Director of the Los Angeles Housing Authority before being appointed by President Clinton, in 1993, as HUD's Assistant Secretary of Public and Indian Housing. In 1995, when the federal government took over the Chicago Housing Authority (CHA), Mr. Shuldiner agreed to spearhead HUD's efforts to transform the agency, and under his leadership CHA was removed from HUD's troubled agency list. Mr. Shuldiner oversaw every

aspect of the CHA's work including the construction of affordable units at Grant Park; a comprehensive revitalization plan for Cottage Place Gardens and the Warburton and Ashburton neighborhoods which include the construction of additional family and senior units; and the massive redevelopment of the Authority's distressed public housing. Mr. Shuldiner brings to this monitoring assignment as a whole and to the Public Housing Financial/Funding group in particular, invaluable knowledge and experience in operating public housing developments, including the financial challenges and potential solutions to the on-going need for funding to support critical initiatives; in this engagement, Mr. Shuldiner's expertise and experience will be directly relevant and important to the Monitor's on-going assessments of action plans proposed by NYCHA for implementation in compliance with the Agreement.

Dr. David E. Jacobs, PhD, CIH; President, David E. Jacobs, Inc. – Lead Paint Expert

Dr. Jacobs is one of the nation's foremost authorities on childhood lead poisoning prevention. He is the former director of the Office of Lead Hazard Control and Healthy Homes at HUD and the principal author of both the President's Task Force Report on the subject in 2000 and the Healthy Homes Report to Congress in 1999. His current work includes research on asthma, international healthy housing guidelines, lead poisoning prevention, and green sustainable building design. Dr. Jacobs is a Certified Industrial Hygienist® and holds degrees in political science, environmental health, technology, and science policy and a doctorate in environmental engineering. Dr. Jacobs will be an essential advisor to the Monitor and to the Group Team Leader for Lead in the on-going evaluation of NYCHA's efforts to comply with the lead paint-related initiatives required under the Agreement.

Jeff Lines, Senior Advisor/Group Co-Leader, Public Housing Financial/Funding¹

Mr. Lines has over 40 years of experience in the field of public and assisted housing. He has worked in the administration of public housing at both the state and local levels and at the federal level as the U.S. District Court Receiver for the Housing Authority of Kansas City, Missouri. Mr. Lines served as the lead technical consultant to the National Commission on Severely Distressed Public Housing coordinating all research, preparation of reports and the development of findings and recommendations presented to the U.S. Congress which served as the foundation for the HOPE VI Program and the mixed finance approach to redeveloping public housing. In 2010, Mr. Lines was retained by the Office of the HUD Secretary to convene the first ever conference between senior HUD Officials and residents and advocates representing every HUD assisted housing program to discuss the Obama Administration's proposals to establish a uniform financial assistance program for all forms of HUD housing referred to as Transforming Rental Assistance which was later used to create the Rental Assistance Demonstration (RAD) Program. Mr. Lines brings to this monitoring assignment as a whole and to the Public Housing Financial/Funding

¹ Mr. Lines has recently accepted an executive position with NYCHA's newly-appointed Chair Gregory Russ, so he will be leaving the Monitor team. The Monitor looks forward to continuing to work with Mr. Lines in his new position.

group in particular, invaluable knowledge and experience in operating public housing developments. Mr. Line's expertise and experience will be directly relevant and important to the Monitor's on-going assessments of action plans proposed for implementation by NYCHA in compliance with the Agreement.

Doris Welch, Group Co-Leader, Resident Engagement

Ms. Welch worked for the New York City Housing Authority for 28 years where she was the second female Resident Building Superintendent in NYCHA history. In this role, her responsibilities included overseeing the supervisor of caretakers, supervisor of grounds keepers, and operations and functioning of the maintenance and heating plant staffs. Ms. Welch's career with NYCHA included serving as Superintendent of three housing complexes in Brooklyn and the Bronx; Administrator in the Training Department, High School Institute where she oversaw three schools' maintenance programs leading to jobs at the Housing Authority; Assistant Superintendent for the Douglass Houses in Manhattan; and Heating Plant Technician for the Elliott/Chelsea Houses in Manhattan. She also worked in the Executive and Construction Departments. Ms. Welch's background and deep knowledge of NYCHA operations makes her well-suited to work on the Monitor's groups focusing on resident and community engagement.

Turner & Townsend/Newmark Knight - Construction, Maintenance/Capital Project Advisor/Oversight

Turner and Townsend and Newmark Knight will provide the Monitor with the expertise necessary to the tasks of assessing and ensuring the feasibility and appropriateness of NYCHA's plans for achieving key maintenance, repair and related capital construction goals mandated and anticipated under the Agreement. Turner & Townsend and Newmark Knight, working together and in tandem with the Leadership Team and in support of individual Group Leaders, will verify the accuracy of NYCHA reporting regarding the status of and spending on work orders, capital construction and repair initiatives. This will include on-going reviews of project records and reports with a focus on project planning, project scheduling, and project cost management.

In undertaking its work, Turner & Townsend will stand up a Construction Project Management Office ("CPMO") to review, monitor and confirm technical requirements as noted in information provided by NYCHA and/or consultants engaged on their behalf and provide recommendations to the Monitor for quarterly and annual reporting. The CPMO will be set-up on a borough by borough basis reporting upward to a central office and is meant to cover work noted in the Agreement and in select parts of Exhibits A, B and C to the Agreement.

Turner & Townsend will also assist the Monitor in overseeing NYCHA in the stand up of its Project Management Information System as a central repository of data to enable the upload and centralization of detailed site, financial and progress information from all ongoing projects into the system. to verify and make recommendation to the Monitor for quarterly and annual reports.

The experience and expertise of the following key members of the Towner & Townsend and Newmark Knight teams are testament to their value to the monitorship and, ultimately, to enduring enhancements to NYCHA's approach to maintenance, repair and capital construction planning.

Terrence Dunn, (Director, Turner & Townsend)

Mr. Dunn brings more than 25 years of diverse real estate and construction experience to the engagement. As a registered architect and with a professional background in construction management, he is a highly effective professional with extensive experience managing the development, design and construction of major residential projects. Mr. Dunn recently oversaw the team that delivered the Mutual Redevelopment Houses, Inc. project, a residential cooperative housing development. He is currently serving as a construction/program manager on the Hudson River Park Trust.

James E. Murphy, (Director, Turner & Townsend)

Mr. Murphy, a seasoned Program and Construction, Management Executive, has 24 years of professional program, construction management and engineering experience, successfully leading projects, programs and regional business lines. He has previously worked on NYCHA projects and understands both its structure and the challenges it faces. He has been involved with the NYCHA Coney Island 4 Developments Reconstruction and Resiliency program, CDBG-HUD Program; Major Renovations at the Harlem River Houses and the Ravenswood Houses; and, Exterior Brickwork Restoration and Roof Replacement, among other public projects.

Robert Raynes, (Director, Turner & Townsend AMCL, Inc.) Group Co-Leader, Organizational Management

Mr. Raynes, with Turner and Townsend, is a UK-Chartered Quantity Surveyor with over 20 years of experience in providing consultancy and management roles in capital delivery and assessment management for infrastructure, real estate and natural resources clients. His experience has covered supporting the implementation of organizational strategies, governance and delivery models. Mr. Raynes has developed and implemented business and asset management strategies in conjunction with implementing business improvement initiatives to support day to day asset management. He has extensive experience in developing and establishing solutions for the delivery of both capital and maintenance operational requirements and structuring the way clients manage the delivery of their requirements from suppliers. Mr. Raynes has managed to set-up the operational use of new systems and structures into organizations and programs to provide enhanced surety of delivering capital and asset management day to day services. These skills will be brought to bear in his co-leadership of the monitoring group overseeing, evaluating and furthering NYCHA's efforts to meet the mandates of the Agreement relating to management and organizational enhancement.

As noted, Mr. Raynes has over 20 years of experience in providing consultancy and management roles in capital delivery and asset management for infrastructure, property and natural resources clients. Projects in the US include the New York Power Authority, New York MTA and Boston's MBTA. Examples of his clients in the UK include housing associations, city councils, county councils and utility companies. Mr. Raynes has provided advice, guidance and management support to these clients and others at delivery team, management and executive levels. His projects include the development and implementation of business and asset management strategy initiatives to support day to day management efforts. He has also developed and implanted capital governance methods, program management and supply chain management models for large scale capital recurring and non-recurring maintenance and associated professional services.

Stephen Coulthard, (Director, Turner & Townsend)

Mr. Coulthard has helped some of the world's leading organizations define their real estate strategies and deliver major capital projects and programs. He has assembled and led multi-disciplinary teams to provide portfolio, program, project, PMO, commercial, cost, controls and technology services across the real estate sector. Clients include multinational financial services and life sciences companies, private developers, local and national government organizations, colleges and universities. Open-minded and a strategic thinker, Mr. Coulthard is able to collect, analyze and process varied inputs and opinions, develop clear goals and plans, and engage stakeholders to gain their support. He has established and led local office, regional sector, and global account teams and Turner & Townsend's North Americas Key Account Program which oversees the delivery of over \$10bn of capital projects per year.

Matthew Isherwood, (Associate Director, Turner & Townsend)

Mr. Isherwood has more than 14 years of experience offering a full range of project management skills with specific strengths in requirements analysis, stakeholder management, design management, risk and issue management, business case development, planning, change management, procurement and reporting. He is well versed in corporate procurement, governance and decision-making processes across a range of sectors. He has successfully managed projects in construction, fit-out and as part of change programs focusing on systems, people, and process transformation.

Matt Duthie, (Executive Residential Manager, Newmark Knight Frank)- Resident Services/Maintenance/Repairs

Mr. Duthie brings more than 32 years of commercial real estate management experience, including management of residential properties, to the monitorship. He provides expert knowledge in management and operations, including expense reduction, innovative resources,

procurement and forward-thinking residential property operations and staffing. He most recently served as a managing director at Jones Lang LaSalle, where he was charged with leading the firm's Property Management Group in New York City, overseeing a 15 million-square-foot portfolio. Previously, Mr. Duthie was an executive vice president responsible for property management and construction at Ruben Companies which included 5 million-square-foot of office space and over 1,000 luxury apartments.

Keith Wright, Governmental Communications and City Expertise

Hon. Keith L. T. Wright serves as the Chairman of the Harlem Community Development Corporation. Mr. Wright has held positions in New York City's Human Resources Administration, the Manhattan Borough President's Office and the New York City Transit Authority. With more than 20 years' experience in local and state government, Mr. Wright has unmatched, first-hand knowledge of New York's regulatory and institutional landscape. From 1993 to 2016, he served as a Member of the New York State Assembly (the lower house of the New York State Legislature) representing the 70th District. During this tenure, he was the Co-Chairperson of the New York State Democratic Committee and led key committees on housing, election law, social services and labor. He is a graduate of Tufts University and Rutgers Law School. .

Mr. Wright will be an important asset to the Monitor in his overall and on-going communications with the community, city and state leaders on matters relating to NYCHA's compliance with the Agreement.

APPENDIX 4

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Mayor de Blasio & U.S. Department of Housing and Urban Development Secretary Carson Announce Appointment of Gregory Russ as Chair of the New York City Housing Authority

June 18, 2019

NEW YORK—Mayor Bill de Blasio and Secretary Ben Carson today announced the appointment of Gregory Russ as Chair of the New York City Housing Authority. Russ has more than 25 years of experience working to protect and turn around public housing across the country, most recently as CEO of the Minneapolis Public Housing Authority and as the former Executive Director of the Cambridge Housing Authority, where he spearheaded sweeping plans to deliver extensive apartment renovations across the entire housing portfolio.

Russ was selected by Mayor de Blasio from a slate of candidates that was jointly approved by himself, the Southern District of New York and the U.S. Department of Housing and Urban Development.

"In a national search, Greg Russ stands out as someone with the guts to make big changes and the heart to do right by public housing residents. Greg has shown he can secure residents the repairs they've been waiting for and strengthen public housing for the next generation. He's shown again and again that he can listen to residents, build trust and improve people's lives. I'm thrilled to welcome him to NYCHA," said **Mayor Bill de Blasio**. "I want to thank Kathryn Garcia for her leadership these past several months. She helped energize and strengthen NYCHA, push through vital reforms and set in motion plans that will make residents safer and healthier."

"The families who depend on NYCHA for housing need to see meaningful change to their living conditions, and we applaud Greg Russ for taking on this important effort," said **Secretary Carson**. "Working closely with the City, the federal monitor, and – most importantly – NYCHA residents, we expect Greg will lead the housing authority in a new direction. We look forward to seeing solutions to NYCHA's decades-old problems, and HUD will continue to advocate for the hundreds of thousands of families whose livelihoods depend on access to safe, fair, and affordable housing."

"Public housing is a calling. I believe in it. NYCHA and its residents are irreplaceable parts of New York City. My mission is simple: to fix residents' homes today and to leave NYCHA stronger for the next generation. To the hundreds of thousands of people who call NYCHA home, to the ten thousand hardworking men and women who work at NYCHA, I am ready to fight for you," said incoming **NYCHA Chair Greg Russ**.

"Throughout Greg's career, he has gained expertise from working at every administrative level of various public housing authorities," said **Vicki Been, Deputy Mayor for Housing and Economic Development**. "The more than 400,000 residents living in NYCHA can trust that Greg will put their needs first. He is committed to preserving public housing, removing red tape and securing resources to get much-needed repairs done, and to opening up job and educational opportunities for our residents."

Russ is a tested change-agent who has helped rebuild and protect struggling public housing across the country, including in Detroit, Philadelphia and Chicago.

At the Cambridge Housing Authority, Russ launched the effort to renovate and rehabilitate every apartment using Obama-era Section 8 conversion programs, with repair efforts now fully underway across the portfolio. He then brought that model to Minneapolis. As part of its NYCHA 2.0 plan, the de Blasio administration is now using those same tools on an even larger scale to fully renovate and preserve 62,000 apartments to provide residents with the safe, quality housing they deserve – all while guaranteeing their rights as public housing residents.

Russ has a track record of investing in jobs and education opportunities for residents. In Cambridge, Massachusetts, where Russ served for the first time as head of a public housing authority, he launched a matched savings program for high school students saving for college that helped boost graduation rates to 93 percent. In Minneapolis, he started Stable Homes Stable Schools, an initiative to provide stable housing to families with school-age children at risk of homelessness. Under his leadership, the Housing Authority launched its Quality Maintenance Program to proactively bring workers into apartments to make a wide-range of repairs all at once, and before residents call in complaints.

Russ will take office in mid-August 2019. Kathryn Garcia, who has been serving as Chair on an interim basis, will return to her position as Commissioner of the Sanitation Department.

About Gregory Russ

Gregory Russ is a seasoned housing professional with decades of management experience. Most recently, he served as Executive Director and Chief Executive Officer of the Minneapolis Public Housing Authority. Before Minneapolis, Russ served as Executive Director of the Cambridge Housing Authority. He also served as Deputy Executive Director of the Philadelphia Housing Authority, helping oversee the management, maintenance operations and security services for the 70,000 residents. From 1997 to 2002, he served in several roles with the Chicago Housing Authority. Russ also served as Principal Associate for Abt Associates, a consulting firm assisting public, private and non-profit housing agencies with strategic planning.

In 1995, Russ worked as Special Assistant to the Deputy Assistant Secretary for Public and Indian Housing at the U.S. Department of Housing and Urban Development, working under the Clinton Administration. He later served as Director of Troubled Agency Recovery.

Russ holds a Bachelor's Degree in English from the Shippensburg University of Pennsylvania and is a board member of the Council of Large Public Housing Authorities. He is also former president of the

Public Housing Authority Director's Association and a member of the Federal Reserve Opportunity and Inclusive Growth Advisory Council.

pressoffice@cityhall.nyc.gov

(212) 788-2958

APPENDIX 5

Office of the
NYCHA FEDERAL MONITOR
Bart M. Schwartz
Pursuant to Agreement dated January 31, 2019
415 Madison Avenue
11th Floor
New York, New York 10017
212.817.6733

May 30, 2019

VIA EMAIL

Kathryn Garcia
Interim CEO and Chair
New York City Housing Authority (NYCHA)
250 Broadway
New York, NY 10007

Re: Concerns Relating to NYCHA's Handling of Lead-Based Paint Imperatives

Dear Interim CEO and Chair Garcia:

Because of your testimony before the City Council on May 7th - and considering our meeting at City Hall on May 22nd - I have concluded that it is necessary to set out in writing the reasons that caused me to express concern to you about NYCHA's efforts to comply with the letter and spirit of the January 31st Agreement into which NYCHA entered with federal authorities (the "Agreement").

I am focusing now on lead-based paint because of the seriousness of the issue and the associated urgent responsibilities of NYCHA to protect children under six, the most vulnerable segment of the population in NYCHA housing. I also raised these issues in a meeting with your office on May 14th.

Initially, as discussed below, I believe that your testimony before the City Council on May 7th omitted material details about lead paint issues that are required to be addressed now and in the future by the NYCHA, and thereby may have resulted in a misleading impression being given to City Council members and the public about how these issues are being addressed.

Failure to Make an Acceptable Effort to Identify Lead Paint Units Inhabited or Routinely Visited by Children Under Six

Regarding NYCHA's obligations under the Agreement respecting "Priority Action Units and Common Areas" [see Exhibit A, Paragraphs 4 and 5], in the prepared remarks you read to the Council, you said "as of May 6, [2019] NYCHA has

corrected presumed lead paint failures in 2,336 apartments with a child under six and attempted to remediate 223 apartments." I believe that this left the Council with the misimpression that these 2,559 apartments represented the complete universe of apartments that NYCHA, after conducting proper diligence and investigation, could reasonably identify as being occupied by children under six. Indeed, in an Authority with over 400,000 known residents, and perhaps as many as 200,000 additional off-the-record inhabitants at any given time, the Council and public would have benefitted from knowing that NYCHA relied solely on resident disclosure forms to determine where children under six reside. In response to my questions to you, you informed me that NYCHA made no other efforts to identify children at risk by virtue of inhabiting or routinely visiting lead paint units. This reliance solely on resident disclosure forms to identify children at risk was confirmed by various NYCHA employees during Monitor team interviews. NYCHA did not speak with or survey building managers and superintendents or others, did not conduct any site visits, did not review any other city records and/or engage in any other actions that might reasonably lead to the identification of apartments occupied by children under six.

I have also confirmed that NYCHA's own Resident Engagement unit was ignored in this identification process, despite that communicating with residents is its job. Indeed, recent press stories report that NYCHA is sending its employees to developments to convince residents to support NYCHA financing and other plans. (See NY1 – "NYCHA Goes Door to Door to Sell Its Development Plan"). Look at NYCHA's efforts at the Fulton Houses to get residents to understand new development ideas and to support them by sending emissaries to the development for face to face meetings and compare it to the total lack of effort to personally contact residents about the safety of their youngsters and accurately determine where they are living and regularly visiting.

This is not the first time I am raising this issue and I raised it long prior to your May 7th testimony.

Under the Agreement, NYCHA is also required to identify apartments that NYCHA has reason to believe are routinely visited by a child under the age of six. However, despite this vital obligation, it appears that no effort whatsoever was made to identify apartments in which children under six regularly visit. For example, it is common knowledge that children visit grandparents in senior developments while their parents work or are unavailable. All one needs to do is stand outside a senior development to see all the children who visit there. I am certain that NYCHA employees at these senior developments have reason to believe that many apartments in these developments are routinely visited by children under six.

In response to a question posed by Council Member Barron on May 7th you testified that NYCHA does not know "the number of apartments where children under six are living with lead paint." With this I agree, but the Council and public

have a right to know how little effort NYCHA undertook to identify such apartments. The health and welfare of NYCHA's children and the letter and spirit of the Agreement require much greater efforts than those in which NYCHA is presently engaging.

Potentially Setting NYCHA Up for Failure Based on Unnecessarily Optimistic XRF Testing Projections

With respect to your testimony regarding the recently commenced XRF testing, based on my office's discussion with experts, and certain NYCHA personnel, I believe that there is currently very little likelihood that XRF testing of the 135,000-targeted units can be completed by the end of 2020 and that number may grow if your "exemptions" are not supported. Such a schedule requires the testing of some 6,750 units per month (based on 20 months). Data posted on NYCHA's website shows that (including three days in April when 54 units were tested) only 1,740 apartments were tested through May 17th (1.3% of the total). Continuing the current pace of testing (109 units per day), approximately 2,300 units would be tested in an average month, which would mean it would take approximately 58 months to complete the testing of all 135,000 units.

When I first raised this issue, I was told by your office that the 2020 date in your testimony was based on the contract language. I do not believe that was a proper basis for your testimony in view of the facts known.

In addition to the imperative of mitigating risks to children, the proper scheduling of the completion of testing is vitally important to the prioritization and implementation of the abatement process, as well as determining when funding for abatement must be made available.

Exempt Unit Status and Supporting Records

You also testified that documentation used by NYCHA to support exempting over 50,000 pre-1978 apartments from lead paint status was provided to the Monitor. In my view, you should have made plain that the section of the Agreement to which this pertains [Exhibit A, Paragraph 6] required NYCHA to submit these documents "to the United States" so that "HUD and SDNY" can review the documents and in their discretion "may reject that determination" of exempt status. We understand that such review is ongoing. Your testimony incorrectly left the impression that the Monitor had somehow accepted the purported documentation or that the United States Attorney's office had done so.

No Disclosure of Painting Contractor Transgressions

You have characterized NYCHA's relationship with the Monitor as a "partnership." However, my office had to learn through its own efforts of multiple painting vendors having been caught violating lead safe work rules by DSNY

inspectors assisting NYCHA. These fundamental rules help insure the health and safety of residents and workers alike. We continue to look at other such possible violations to ascertain the extent of the issue. While the work of the DSNY inspectors on behalf of NYCHA is commendable, if NYCHA considers the Monitor to be a partner, it should be routinely disclosing such problematic behavior to my office upon it being discovered or even reasonably suspected.

Accountability

Considering the foregoing, perhaps the most frustrating recent development has been that at the meeting of May 22nd, despite NYCHA's claims of diligent efforts to address the lead-based paint crisis, you and your staff were unable to identify for me the person at NYCHA in charge of and accountable for getting this most urgent work done promptly and correctly.

Immediate Actions That Should Be Taken by NYCHA Regarding Lead

I believe that the following are required:

1. Promptly take steps to clarify your testimony for the City Council and the public.
2. Immediately develop a plan acceptable to the Monitor to identify apartments in which children under six reside or regularly visit and make that plan public.
3. Arrange priority XRF testing of apartments containing lead paint and routinely visited by children under six not previously scheduled for testing and make that schedule public.
4. Announce a realistic schedule for completing the current XRF testing.
5. Meet with the Monitor and representatives of HUD, and the U.S. Attorney's office, to (i) disclose and explain any pending inability to promptly and lawfully comply with lead-based paint responsibilities under the Agreement and federal law and to (ii) discuss your purported evidence supporting unit exemptions, including giving a presentation supporting your claims of exemption, and then, make the evidence public.
6. Establish a "Lead Project Page" on the NYCHA website which is easily accessible and populate that page with project details, goals and status reports as well as how NYCHA is insuring compliance with the Agreement and federal law.

While this letter is focused on issues relating to lead because of the severity of the issues raised and their effect on children under six, it should not be taken as an indication that I believe that NYCHA has met its obligations in other areas

covered by the Agreement. There are other areas of potential violations which we are currently reviewing which may be addressed in our initial report or sooner.

Very truly yours,



Bart M. Schwartz
Federal Monitor Appointed
Pursuant to January 31, 2019 Agreement

Cc: VIA EMAIL

Vicki Been, Deputy Mayor
Zachary W. Carter, Corporation Counsel, City of New York
Arden Sokolow, Chief of Staff, Office of the Chair, NYCHA
R. Hunter Kurz, Principal Deputy Assistant Secretary, HUD
Lynne M. Patton, Regional Administrator, Region II, HUD
Geoffrey S. Berman, United States Attorney, SDNY
Robert Yalen, Assistant United States Attorney, SDNY
Corey Johnson, Speaker, New York City Council
Alicka Ampry-Samuel, Council Member, New York City Council



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KATHRYN GARCIA
INTERIM CHAIR & CHIEF EXECUTIVE OFFICER

May 31, 2019

VIA EMAIL

Bart M. Schwartz
NYCHA Federal Monitor
415 Madison Avenue, 11th Floor
New York, New York 10017

Dear Mr. Schwartz:

I am confounded by the tone, timing, and content of your May 30, 2019 letter. Our office has and will continue to fully cooperate with Guidepost's large team and I have tried to collaborate with you in order to help improve NYCHA at weekly meetings with the General Manager and other senior officials. We have made NYCHA staff – as well as our records, data, reports, and other information – available to you and your team. Your decision to eschew the protocols available to you under our agreement, in favor of an unexpected and unwarranted public expression of frustration, is unfortunate and misguided.

At the outset, NYCHA fully acknowledges that it needs to make significant improvements with respect to its compliance with the lead-based paint rules. Our agreement with HUD sets forth an aggressive roadmap to make sure that NYCHA provides its residents with safe, quality housing. We are working hard to implement the systems and protocols that will allow us to reach that goal, quickly and effectively.

My testimony at the May 7th Budget Hearing was intended to provide a brief status update of our progress to date, and my testimony was truthful and forthright. We expect to continue to provide you, the Council, and other stakeholders with future updates on our continued efforts to improve our compliance and increase our transparency on these challenging issues. I will address each of your assertions in turn.

First, with respect to your belief that NYCHA can do more to identify children under the age of 6 living in units with actual or presumed lead paint, NYCHA reviewed annual recertifications from our residents that identify the composition of their households. We recognize, however, that more can always be done to identify children that have not been disclosed on these official records by our residents. For instance, in January 2019, NYCHA issued surveys to all residents to obtain additional information about children under 6 and NYCHA plans to incorporate the results going forward. When we met about

this issue on May 22nd, you mentioned that we should ask our building superintendents if they are aware of any undisclosed children residing in the units. We are reviewing the challenges that this may pose to our residents and employees and we had expected to continue a detailed dialogue on this issue at our regular meetings. Given the unfortunate tone of your letter, I instead will assign a team to review and respond to your written suggestions by June 6.

Second, I fundamentally disagree with your grossly premature assertion that, based on just over a month of data, you believe that NYCHA will be unable to complete its critical XRF initiative by the end of 2020. As with any large initiative, the XRF initiative will ramp up over time, and we fully expect to soon be completing the XRF work at a pace that will enable us to meet the end of 2020 timeline as we add staff and increase the efficiency of the process. Moreover, publicly backtracking at the start of an \$88 million project does nothing more than needlessly reduce NYCHA's ability to effectively manage our contractors to actually meet the goals we intend to keep. To be productive, we suggest that we establish a regular meeting with your team and the technical staff overseeing the project to regularly review the progress and schedule.

Third, I disagree with your characterization of my testimony regarding the deliverables required by Exhibit A, Paragraph 6, which NYCHA submitted to the United States Attorney. I simply provided the Council with a status update of an important deliverable that NYCHA submitted under the Agreement. The publicly-available agreement clearly establishes a process for HUD and SDNY to review and potentially reject the documents submitted by NYCHA (*See* Agreement, Exhibit A, ¶ 6). NYCHA is still awaiting HUD's and SDNY's response to the technical submission, and when their response is received, NYCHA will follow the process outlined in the agreement.

Fourth, your statement that "my office had to learn through its own efforts" of lead safe work rule violations by vendors is specious. As you recognize, the monitoring that identified these deficiencies is through an ongoing monitoring program designed and administered by NYCHA's Compliance Department in partnership with the New York City Department of Sanitation (DSNY). We have been sharing information with you about this program for months, including information about vendor non-compliance. For instance, in an email dated April 8, 2019 to four Guidepost team members, we attached detailed monitoring reports indicating areas where DSNY had identified lead safe work practice deficiencies with respect to both NYCHA staff and vendors. Your letter's failure to acknowledge your staff's receipt of these reports from NYCHA staff is troubling. Given that NYCHA has been transparent about this monitoring program - and will continue to give you access to staff, documents, and data regarding this significant effort to enhance NYCHA's compliance culture - we are very perplexed by the implication that we have not disclosed this to you.

Fifth, you state that "perhaps the most frustrating recent development" of our May 22nd meeting, was that "you and your staff were unable to identify for me the person at NYCHA in charge of and accountable for getting this most urgent work done promptly and correctly." NYCHA completely disagrees with your statement. At this meeting, our

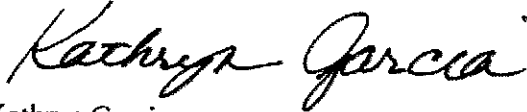
General Manager Vito Mustaciuolo informed you personally that he was accountable for overseeing this work—commensurate with the importance NYCHA places upon its execution. General Manager Mustaciuolo oversees the Operations and Healthy Homes Departments, which work in coordination to manage the inspection, testing, remediation, and abatement related to lead paint.

We will schedule a meeting with SDNY, HUD, and the Monitor to discuss your letter and our ongoing efforts with respect to lead-based paint.

Further, today, NYCHA is presenting the Monitor, HUD, and SDNY with a corrective action plan that addresses shortfalls we have identified that prevent the Authority from certifying full compliance pursuant to paragraph 30 of Exhibit A.

We remain hopeful that moving forward – starting with the Corrective Action Plan – we can establish a collaborative relationship focused on improving the quality of life for NYCHA residents.

Sincerely,



Kathryn Garcia
Interim Chair & Chief Executive Officer

Cc: VIA EMAIL

Dan Brownell, Senior Managing Director, Guidepost Solutions LLC
Vicki Been, Deputy Mayor
Zachary W. Carter, Corporation Counsel, City of New York
Vito Mustaciuolo, General Manager, NYCHA
Arden Sokolow, Chief of Staff, Office of the Chair, NYCHA
R. Hunter Kurz, Principal Deputy Assistant Secretary, HUD
Lynne M. Patton, Regional Administrator, Region II, HUD
Geoffrey S. Berman, United States Attorney, SDNY
Robert Yalen, Assistant United States Attorney, SDNY
Corey Johnson, Speaker, New York City Council
Alicka Ampry-Samuel, Council Member, New York City Council



NEW YORK CITY HOUSING AUTHORITY
250 BROADWAY • NEW YORK, NY 10007

TEL: (212) 306-3000 • on.nyc.gov/nycha

MEMORANDUM

TO: Bart Schwartz, Chairman, Guidepost Solutions; Geoffrey S. Berman,
United States Attorney for the Southern District of New York

FROM: Kathryn Garcia, NYCHA Interim Chair & Chief Executive Officer

DATE: May 31, 2019

SUBJECT: Exhibit A Paragraph 30 Certification

Dear Chairman Schwartz:

I, a duly authorized representative of the New York City Housing Authority (NYCHA),
certify the following.

A handwritten signature in black ink that reads "Kathryn Garcia".

KATHRYN GARCIA
INTERIM CHAIR & CHIEF EXECUTIVE OFFICER

Exhibit A Paragraph 30 Certification

Paragraph 4:

On March 4, 2019, NYCHA provided SDNY with a spreadsheet that was responsive to the information requests in Paragraph 4 of Exhibit A. This spreadsheet identified the following:

- 277 public housing developments built prior to January 1, 1978 and that are not subject to an exemption pursuant to 24 C.F.R. § 35.115 (“Lead Paint Developments”);
- 46,372 units in Lead Paint Developments that are not subject to an exemption pursuant to 24 C.F.R. § 35.115 (“Lead Paint Units”);
- NYCHA identified a subset of 3,028 Lead Paint Units that NYCHA had reason to believe were occupied by a child under the age of 6, based on household composition data as of January 1, 2019. These child-under-6 units comprise the Immediate Action List.

Paragraph 5:

Based upon NYCHA records, NYCHA provides the following status report of units on the Immediate Action List:

Status	NYCHA Progress as Reported on March 4, 2019	NYCHA Progress as of May 31, 2019
Total Number of Units on Immediate Action List	3028	3028
Moveouts	3	4
Units with Completed Visual Assessments	2854	2962
Units Still Requiring Visual Assessments Despite Attempted Access	171	62
Units w/ Identified Deficiencies	2487	2567
Units w/ no Deficiency	367	395
Number of Units Where NYCHA Performed Interim Controls Below Lead Safe Housing Rule De Minimus Levels	557	615
Number of Units where NYCHA Performed Interim Controls Above Lead Safe Housing Rule De Minimus Levels	1587	1768
Units Still Requiring Interim Controls Despite Attempted Access	342	184

The Method(s) Used to Correct Any Lead Paint Hazards Identified on the Immediate Action List

Based on a review of NYCHA's records, including data from Maximo, the method used by NYCHA to correct lead-based paint hazards on the Immediate Action List qualifies as "interim controls" under the Lead Safe Housing Rule.

Compliance with the Lead Safe Housing Rule; Renovation, Repair and Painting Rule; and Abatement Rule

NYCHA cannot certify at this time that it has fully complied with the Lead Safe Housing Rule, the Renovation, Repair and Painting Rule, and the Abatement Rule ("the Rules") for the Immediate Action List sites. As explained in the annexed Corrective Action Plan, NYCHA has improved its compliance with the Rules, but shortfalls remain in key areas, particularly with regard to recordkeeping, clearance examination, and resident notification. The Corrective Action Plan identifies key areas of non-compliance with the Rules and provides NYCHA's short-term and long-term strategy for improving compliance. Based upon the data entered into the system of record as of May 31, 2019, NYCHA is awaiting clearance examination laboratory results for 905 Immediate Action List units and still needs to perform clearance examinations in 618 Immediate Action List units. Of the 618 units, NYCHA has made attempts to perform the clearance examinations in 503 units.

Paragraph 6

On May 1, 2019, NYCHA provided documents sufficient to show NYCHA's basis for claiming that certain public housing developments built before 1978 are exempt, pursuant to 24 C.F.R. § 35.115.

The disclosed records reflect three sets of public housing developments:

- 72 multi-family developments built prior to 1960;
- 88 multi-family developments built between 1960-1978; and
- 29 developments built before 1978 that are designated for exclusively housing the elderly, pursuant to 24 C.F.R. § 35.115(a)(3).

For the 160 developments not designated as housing for the elderly, NYCHA provided multi-family random sampling lead-based paint testing records. However, NYCHA was unable to locate the original testing reports for one development built before 1960 and four developments built between 1960-1978. For these five developments, NYCHA provided charts reflecting records from its database of XRF testing results.



MEMORANDUM

TO: Bart Schwartz, Chairman, Guidepost Solutions; Geoffrey S. Berman,
United States Attorney for the Southern District of New York

FROM: Kathryn Garcia, NYCHA Interim Chair & Chief Executive Officer 

DATE: May 31, 2019

SUBJECT: Exhibit A, Paragraph 30 Certification Corrective Action Plan

INTRODUCTION:

Lead-based paint was banned in New York City in 1960, nearly two decades before it was banned nationally in 1978. The New York City Housing Authority (“NYCHA”) is New York City’s largest landlord, providing the City’s lowest income residents with affordable housing. In recent years, NYCHA has undertaken continuing efforts to comply with applicable federal and local requirements for apartments with presumed and/or actual lead-based paint (hereinafter referred to as “lead-based paint”) after significant compliance gaps were revealed. NYCHA has adopted a risk-based approach to prioritize limited resources to target efforts in units with lead-based paint that are occupied by children under six, as it increases capacity and implements the processes required for broader compliance.

Examples of key progress include:

- In 2017, NYCHA conducted visual assessments within 8,915 units as required under Local Law 1 of 2004. In 2018, NYCHA improved its compliance completing or attempting visual assessments for nearly 50,000 units presumed to contain lead-based paint under Local Law 1 and the Lead Safe Housing Rule (LSH Rule).
- Providing EPA-certified Renovator Training to over 2,628 staff in Lead Safe Work Practices. NYCHA previously did not systematically identify, track, and train staff in lead safe work practices.
- Launching its plan to test over 134,000 units constructed before 1978 that have not previously been cleared of lead-based paint using X-ray fluorescence (XRF) analyzers. NYCHA is prioritizing XRF testing at developments that are not exempt pursuant to regulation and have the highest concentration of units with children under age six. NYCHA will use results to guide abatement and remediation efforts.

In parallel with operationalizing the components of compliance, NYCHA has been establishing the infrastructure to monitor and enforce compliance.

In 2017, NYCHA launched its first ever Executive Compliance Department responsible for oversight of the Authority's regulatory compliance. The Compliance Department is charged with developing and sustaining a culture of personal responsibility, ethics, and accountability and ensuring that NYCHA carries out its mission with integrity and fidelity to law, regulations, and ethics. The creation of this department is part of NYCHA's broader reforms to address immediate and long-term compliance with regulations designed to protect and improve resident and employee safety.

For example, the Compliance Department has focused its initial monitoring on Lead Safe Work Practices regulations at 556 RRP sites, which are separate from the Immediate Action List, preparing weekly reports on compliance with these lead regulations. While these are different sites, NYCHA has seen improvements in the compliance with Lead Safe Work Practices. For instance, the Compliance Department observed the following increases in compliance between September 2018, when initial monitoring of Lead Safe Work Practices began, and April 2019: from 0% to 91% compliance for sign posting requirements; from 47% to 86% compliance for site set up; from 43% to 83% compliance for work practices; and 56% to 75% compliance for site cleanup.

Together, these efforts have improved NYCHA's ability to identify and mitigate lead-based paint hazards and measure these efforts against the requirements of laws and regulations. However, they fall short of ensuring full compliance with applicable laws and regulations. Coordination and capacity challenges have hampered NYCHA's ability to comply with all elements of the Lead Safe Housing Rule; the Renovation, Repair, and Painting Rule (RRP Rule); and the Abatement Rule. Most saliently, despite visually assessing a majority of units on the Immediate Action List and correcting or attempting to access to correct lead-based paint deficiencies, NYCHA's Compliance Department has determined the agency failed to comply with dust wipe clearance protocols. NYCHA has since mobilized the resources of multiple other City agencies to attempt and conduct the necessary dust wipe clearances.

NYCHA is committed to transparency regarding the state of its progress and, at this time, is unable to certify its compliance with applicable lead-based paint regulations. This document describes the shortcomings identified by NYCHA's Compliance Department, the challenges and process deficiencies that caused those shortcomings, and NYCHA management's proposed corrective actions to improve compliance.

COMPLIANCE MONITORING:

At the request of the Office of the Chair, NYCHA's Compliance Department conducted an analysis ("Monitoring") to evaluate the compliance of the corrections of lead-based paint hazards identified on the Immediate Action List with the LSH Rule; the RRP Rule; and Abatement Rule (40 CFR § 745.227(e) and 24 CFR § 35.1325). The scope of this Monitoring was limited to units where NYCHA identified lead-based paint hazards

exceeding the de minimus levels set forth in 24 CFR 35.1350(d).¹ As of May 31, 2019, 1768 individual units fall within this category.

Compliance Department Methodologies and Procedures:
NYCHA's Compliance Department performed the following:

Regulations and Federal Guidance Review: The Compliance Department reviewed the LSH Rule, RRP Rule, and Abatement Rule to define the specific actions required of NYCHA when correcting any presumed and/or actual lead-based paint hazards in units identified on the Immediate Action List. Based on information provided by NYCHA's Operations and Healthy Homes Departments, the methods used to correct presumed and/or actual lead-based paint hazards identified on the Immediate Action List were "interim controls," such as paint stabilization. Paint stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint. *See* 24 CFR § 35.110. Therefore, the Compliance Department used the regulatory criteria applicable to interim controls above the de minimus level that are set forth in 24 CFR §35.1330 (and regulations referenced therein) and 24 CFR Part 35, Subpart B. In addition, interim controls are subject to 40 CFR Part 745, Subpart E.

The Compliance Department also reviewed the Guidelines for the Evaluation of Lead-Based Paint Hazards in Housing (2nd Edition, July 2012), published by HUD's Office of Healthy Homes and Lead Hazard Control.

Policy, Procedures, Forms and Training Materials Review: The Compliance Department reviewed the following NYCHA policies, procedures, and training materials, as published on the NYCHA Form and Reference Library ("FRL"):

- Interim Guidance for Safe Work Practices (August 21, 2018) ("Interim Guidance #1)
- Interim Guidance for RRP Training and Safe Work Practices (August 31, 2018) ("Interim Guidance #2)
- Interim Guidance #3 for Lead Safe Work Practices (September 13, 2018)
- Lead Directive (September 28, 2018) (replacing Interim Directives 1, 2, and 3).
- NYCHA Form 088.184, V1: NYCHA Staff Renovation Recordkeeping Checklist (December 3, 2018)
- NYCHA Form 088.141, V1: Vendor Renovation Recordkeeping Checklist (December 4, 2018)
- EPA Model Certified Renovator Initial Training Course
- NYCHA Standard Procedure Manual, SP 040:18:2, Lead Safety for Renovation, Repair, and Painting (Approved December 31, 2018)

¹ In contrast, NYCHA performed interim controls in 615 units and determined that dust wipe clearance is not required. Based on NYCHA records, these sites met the HUD de minimis threshold set forth in 24 CFR 35.1350(d).

Documentation, File, and Database Review: The Compliance Department reviewed NYCHA's files and databases for records of the required documentation.

SUMMARY OF COMPLIANCE FINDINGS:

Finding 1: For lead-based paint deficiencies in the Immediate Action List units, NYCHA failed to perform clearance examinations that are required for interim controls. See 24 CFR §§ 35.1330, 35.1340, and 35.1345. NYCHA is also not consistently adhering to relevant provisions in its training materials and Standard Procedures (SPs). The training manual on NYCHA's FRL contains several advisements on the need to perform clearance examinations before re-occupancy of the work area, including clearance exams, in housing regulated by the 24 CFR Part 35. Most notably, "When all of the surfaces in the work area have passed comparison with the cleaning verification card, or have completed the post-renovation cleaning verification, the project is complete, and the area can be turned over to occupants unless the housing is receiving federal assistance, or state or local laws require dust clearance testing, in which case the project must pass dust clearance testing before the area can be turned over to occupants." NYCHA's clearance practices are not in line with its current SP. The RRP SP states that "[t]he dust wipe vendor performs a dust clearance examination within two (2) hours of completion of the work order." See RRP SP, VIII.J.1.b.

Condition: Overall, NYCHA performed interim controls within 2,383 Immediate Action List units as of May 31, 2019. NYCHA performed the majority of interim controls for these units from June 2018 to March 2019.² Of these, NYCHA did not perform the required clearance examinations in 1,523³ units in a timely fashion. The majority of first attempts for the clearance examinations did not occur until May 2019. As described in the short-term approach outlined below, using NYCHA, NYC School Construction Authority (SCA), and NYC Department of Housing Preservation and Development (HPD) staff or contractors, NYCHA will have performed clearance examinations or attempted to access each unit twice for the remaining 1,523 units on the Immediate Action List by May 31, 2019 or shortly thereafter.

Cause:

- **Current Capacity Dedicated to Clearance Examinations is Insufficient to Address Existing Backlog and New Clearance Examinations:** NYCHA's existing contractors and in-house personnel are not sufficient to perform clearance examinations within the required timeframe for interim controls and RRP jobs. Contractors and staff certified to perform clearance examinations are committed to multiple priorities, including XRF testing, lead abatement, and mold remediation.
- **Lack of Coordination Between the Operations Department and Healthy Homes Department on Required Clearance Examinations:** Regulation requires that the

² NYCHA continues to attempt to access the remaining units to perform interim controls.

³ NYCHA performed interim controls on 615 other units on the Immediate Action List but determined they did not require a dust wipe clearance. See footnote 1.

individual who performs interim controls cannot also perform the clearance examination. The majority of vendors and staff that perform interim controls report to and are scheduled by the Operations Department, while the dust wipe technicians report to and are scheduled by the Healthy Homes Department. The lack of coordination between these two departments led to non-performance of the clearance examination or delays between the date interim controls were completed and the scheduling and performing of the required clearance examination. Currently, after an interim control is completed, the clearance examination work order must be scheduled manually. The manual process creates a lag or gap between the completion of the interim control and the attempt to perform a clearance examination.

- **Access Challenges:** Once the interim control is performed, a dust wipe technician must access the unit. The longer it takes for the dust wipe technician to be deployed to the unit, the more difficult it is for NYCHA to regain access to the unit to perform the necessary examination.

NYCHA Management Corrective Action Plan: NYCHA is prioritizing the completion of the required clearance examinations in the remaining 1,523 units on the Immediate Action List, followed by other units where interim controls were performed but the clearance examinations are pending. NYCHA recognizes that these clearance examinations will be performed outside the required time period. In order to complete future clearance examinations according to 24 CFR § 35.1345(a) and 2012 HUD Guidelines, 15-33, NYCHA will pursue a multi-pronged approach to expand capacity, improve coordination, and reduce access challenges. The proposed actions will be undertaken subject to available resources.

Short-Term Approach: NYCHA has temporarily increased its capacity by re-assigning Lead Abatement Workers (LAWs) from mold and lead abatement work orders; hiring and training Seasonal Aides to perform clearance examinations; and extending contractor hours.

NYCHA has also expanded capacity to reach all developments with outstanding clearance examinations on the Immediate Action List using HPD staff and existing SCA contracts. By borrowing capacity, NYCHA has been able to attempt to access units when residents are more likely to be home.

As an added measure to reduce “no access” attempts, NYCHA has alerted residents in advance of the arrival of dust wipe technicians through robocalls. Using NYCHA/HPD/SCA staff or contractors, NYCHA will have performed clearance examinations or attempted to access each unit twice for the remaining 1,523 units on the Immediate Action List by May 31, 2019 or shortly thereafter.

Long-Term Strategy:

Expanding In-House Capacity: Over the long-term and subject to available resources, NYCHA will increase in-house staffing and/or contracting capacity to align clearance examination with ongoing interim control and RRP jobs to improve compliance. Currently, the Healthy Homes Department utilizes 4

contracts and approximately 25 assigned personnel to conduct clearance examinations.

The Healthy Homes Department is prioritizing building in-house capacity to address clearance examinations due to the administrative flexibility of managing in-house staff, such as mandating overtime and shifting workers between tasks and geographies as needed. Based on an analysis of the current volume of clearance examinations, the Healthy Homes Department needs to hire 36 in-house staff dedicated to ongoing clearance examinations.

This increase in resources is in addition to the 72 permanent personnel that the Healthy Homes Department is currently recruiting and hiring for its other necessary lead initiatives.

Centralizing Lead Hazard Reduction Activities: Expanded capacity will be paired with centralized responsibility to reduce the challenges of interdepartmental coordination. Under the direction of NYCHA's General Manager, the Healthy Homes Department will be responsible for interim controls end-to-end. The Healthy Homes Department will obtain and maintain its own paint stabilization contracts by December 31, 2019 as a first step to manage and dispatch dust wipe technicians. The Healthy Homes Department expects the vertical integration of this process should improve successful first attempt unit access by reducing the lag between the completion of the interim control and the clearance examination.

Improving Systems: Centralizing interim controls within the Healthy Homes Department will not eliminate all coordination challenges. Each day, in addition to planned interim control work, NYCHA Operations completes approximately 40 RRP work orders that require clearance examinations unrelated to lead hazard reduction work because the work is within a unit with presumed and/or actual lead-based paint. NYCHA has commenced a business process review to map the current state and inform an improved scheduling process ("Lead Compliance Business Process Review"). The Heating Services Department completed a similar business process review prior to the 2018-2019 heating season, which contributed to reducing heating outages and average restoration time compared to the 2017-2018 heating season. The Healthy Homes Lead Director, who is currently scheduled to begin in July 2019, will work in collaboration with other NYCHA departments to submit the Lead Compliance Business Process Review to the Monitor on by the end of 2019.

Resident Engagement and Notice: Unit access is necessary to conduct interim controls and clearance examinations. By September 1, 2019, NYCHA's Community Engagement & Partnerships Department will develop and roll-out a resident education campaign in collaboration with the Healthy Homes and External Affairs Department to amplify and reinforce the message that NYCHA must access units to comply with its obligations to remediate lead-based paint hazards. The education campaign will leverage NYCHA's existing relationships

with Tenant Associations and other resident leaders and community stakeholders and may also use other customer touch points, such as rent statements and the annual recertification process, to reinforce messaging.

Abatement: NYCHA and the City committed to abate lead within units and associated interior common spaces over 20 years as part of the Agreement. The XRF testing initiative will direct NYCHA's abatement efforts, which NYCHA anticipates will reduce the overall compliance burden by decreasing the universe of units with confirmed or presumed lead-based paint.

Finding 2, Part A: In Immediate Action List units where NYCHA did perform clearance examinations, NYCHA was not able to produce copies of the clearance examination reports. 24 CFR § 35.175 and 24 CFR § 1340.

Condition: As of May 2, 2019, NYCHA had completed clearance examinations in 98 units. On May 14, the Compliance Department requested copies of these clearance reports. Healthy Homes informed the Compliance Department that the reports are not stored in a centralized digital location, but are retained by staff in NYCHA's Long Island City office. On May 21, Healthy Homes created a SharePoint site with the requested documentation to centralize document storage. However, of the 98 units, Healthy Homes was only able to produce 67 clearance reports.

Cause:

- NYCHA is maintaining clearance reports in hard copy at a Long Island City facility.
- NYCHA does not have policies and procedures that require these documents to be uploaded into a comprehensive end-to-end recordkeeping system for lead projects.

NYCHA Management Corrective Action Response: As an immediate interim step, by June 7, 2019, NYCHA will request that the vendor that conducted the 31 missing but completed Immediate Action List clearance reports provide the Healthy Homes Department with a secondary copy. These reports will be subsequently scanned and uploaded to the centralized digital location and linked to the parent work order. Going forward, as an intermediate interim measure, NYCHA will manually upload copies of all required documentation - including clearance reports - into the system of record and link the reports with the parent work order. This will provide a centralized, digital repository of required records. NYCHA will hire or assign temporary staff to upload the required documentation until a plan can be executed to manage and streamline recordkeeping.

NYCHA's Information Technology Department will submit a plan by the end of 2019 to digitize this recordkeeping process end-to-end as part of the Lead Compliance Business Process Review. As part of this plan, NYCHA will deploy handheld devices to all contractors conducting clearance examinations to eliminate the current need to manually upload documentation.

By August 1, 2019, the Quality Assurance (QA) Unit will implement an interim QA sampling protocol to audit uploaded files for accuracy and completeness. Results will be reported weekly to NYCHA's Compliance Department, General Manager, and the Chair. By October 31, 2019, the QA Unit will create and implement a long-term QA sampling protocol and reporting schedule.

Finding 2, Part B: NYCHA did not provide notification to all occupants following hazard reduction activities as required by 24 CFR § 35.125(b). In addition, in units where NYCHA performed clearance examinations, NYCHA did not retain copies of all required hazard reduction notices when they were sent residents.

Condition: As indicated by Finding 1, Part A, as of May 31, 2019, NYCHA has not performed clearance examinations in 1,523 units on the Immediate Action List. Because NYCHA has not obtained clearance, NYCHA has been unable to comply with the notification requirements following hazard reduction activities for these units. Of the 98 units where NYCHA performed clearance examinations prior to May 2 when documents were first requested, NYCHA Healthy Homes was only able to provide 48 hazard reduction notices. The remaining notices were not found, and NYCHA cannot verify whether the notices were sent to residents. Healthy Homes did not store these 48 records in a centralized digital location, but on an individual staff member's computer.

Cause:

- Failure to Obtain Clearance Reports Stymies Issuance of Timely Hazard Reduction Notices: The inability for Healthy Homes to obtain clearance reports, either because of the inability to coordinate with Operations or lack of access, has the cascading effect of failing to notify residents of hazard reduction activities in accordance with the LSH Rule. That is because the required notice must include information on the clearance examinations and, if clearance does not occur, the letter is not issued by NYCHA. In addition, the process for issuing the required letter is not currently automated, which could result in human error in sending the required notice in a timely fashion.

NYCHA Management Corrective Action Response: Once clearance is obtained following the corrective actions relating to the Immediate Action List interim controls specified in NYCHA Management Corrective Action Response to Finding 1, Part A, NYCHA will provide the required hazard notice to the resident within 15-business days of NYCHA receipt of clearance.

By July 1, 2019, NYCHA will locate all missing hazard reduction notices for the Immediate Action List units or re-send the notices to the residents. Going forward, NYCHA will manually upload copies of all such notices into the system of record and link the notices with the parent work order until this system becomes automated.

The aforementioned digitized recordkeeping plan will include an automation component so that these resident notifications will be electronically generated when the clearance reports results are uploaded to the system of record.

Office of the
NYCHA FEDERAL MONITOR
Bart M. Schwartz
Pursuant to Agreement dated January 31, 2019
415 Madison Avenue
11th Floor
New York, New York 10017
212.817.6733

June 3, 2019

VIA EMAIL

Kathryn Garcia
Interim CEO and Chair
New York City Housing Authority (NYCHA)
250 Broadway
New York, NY 10007

Re: Response to Letter Received on May 31st, 2019

Dear Interim CEO and Chair Garcia:

I can understand the attempt to respond to my May 30 letter, but I think it is not constructive for me at this time to reply and elaborate item by item. I stand by my letter. Also, I want to acknowledge receipt of NYCHA's May 31 letter confirming that NYCHA has failed to meet the deadline in Exhibit A (Requirements for Lead-Based Paint), Section H ii of the Agreement (Certifications Regarding Lead Paint – Elevated Blood Level Reporting).

We are reviewing the Lead Corrective Action Plan, also dated May 31, which accompanied your letter. We have submitted the Lead Corrective Action Plan to our expert, who is well known in the field. We are ready to make him and other experts available to you for advice on your Plan and therefore your suggestion that all the parties get together is welcomed. Let's move promptly to get that done.

I hope that NYCHA will agree that a further and more detailed communication from you would be helpful to address items 2, 3, 5 and 6 of my letter. Even if NYCHA is not in agreement with item 1, I hope that in the interests of transparency NYCHA agrees that an explanatory statement detailing its efforts to identify and protect children under six be provided to the City Council, the public and NYCHA's residents is desirable, particularly in view of NYCHA's failure to meet the May 31 deadline and the need for the

Corrective Action Plan. This could be accomplished immediately by publicly releasing the final Corrective Action Plan. As to item 4, and in that same vein, I ask that NYCHA commit to announcing promptly, if and when you so determine, when the deadline for completing XRF testing needs to be revised and what that revision would be.

We will of course continue our ongoing work in other areas and we await the meeting on the Corrective Action Plan and lead.

Very truly yours,



Bart M. Schwartz
Federal Monitor Appointed
Pursuant to January 31, 2019 Agreement

Cc: VIA EMAIL

Vicki Been, Deputy Mayor
Zachary W. Carter, Corporation Counsel, City of New York
Arden Sokolow, Chief of Staff, Office of the Chair, NYCHA
R. Hunter Kurtz, Principal Deputy Assistant Secretary, HUD
Lynne M. Patton, Regional Administrator, Region II, HUD
Geoffrey S. Berman, United States Attorney, SDNY
Robert Yalen, Assistant United States Attorney, SDNY
Corey Johnson, Speaker, New York City Council
Alicka Ampry-Samuel, Council Member, New York City Council

APPENDIX 6

Washington Houses Resident Association
1955 Second Avenue Ste. 1E
New York, NY 10029
washingtonhousesra@gmail.com

To whom it may concern:

I'm writing this letter on behalf of all the residents that reside in the Washington Houses NYCHA development. We are 14 buildings, 14 floors, almost 4,000 residents. We here at Washington encounter many problems in our households on the Washington Development grounds. The issue that is at the forefront of our efforts is to control and eliminate our rat infestation. We are hostages in our own homes at night. Due to the rats that are the size of cats that come out from their burrows that they've dug around and under our buildings.

The rats start to come out at 6pm like clockwork. This is throughout the entire development grounds. Residents and I have witnessed RATS:

- 1) Coming out of the elevators and stairways (as a person opening their apartment doors the rat enters)
- 2) Our compactors are closed and have been out of service for over 6 months. (5 Buildings thus far) due to workers not being able to enter compactor rooms for fear of being attacked. This is aggravated by residents popping open compactor doors and still putting garbage inside, to the point of garbage being filled all the way to the 14th floor of buildings. The rats then climb the garbage in the compactors to reach upper floors and enter apartments.
- 3) Rats run across peoples feet as they are sitting on benches outside of their buildings or other public seat areas on the Washington development.
- 4) Climbing trees to attack birds and eat the birds eggs out of nests
- 5) Eating through wires causing electrical work problems throughout the development

As you can see this problem must be dealt with before winter 2018 comes in. In trying to eradicate the rats we have reached out to NYCHA management, intergovernmental, and others. To no avail, this issue has not been addressed. In fact, we were told by NYCHA officials that our development was not that bad and we the residents were exaggerating.

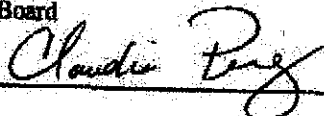
We are trying to address this issue to attain the proper resources. We are asking for your help in getting rid of the infestation that plagues the entire development here at Washington Houses.

Attached are petitions, along with personal testimonies, that residents are circulating within the development to abolish the unwanted and unhealthy vermin at Washington Houses.

In solidarity,

Washington Houses Executive Board

RA President Claudia Perez



APPENDIX 7

Development Visits by Monitor Team through 6/30/2019

Bronx

1. Adams
2. Betances
3. Bronx River
4. Claremont Consolidation
5. Claremont Franklin
6. Eastchester Gardens
7. Edenwald
8. Forest
9. Gun Hill
10. Marble Hill
11. McKinley
12. Melrose
13. Mill Brook
14. Mitchel
15. Monroe
16. Moore
17. Morris
18. Morrisania Air Rights
19. Murphy
20. Parkside
21. Patterson
22. Pelham Parkway*
23. Polo Grounds
24. Sack Wern
25. Sotomayor
26. Soundview
27. St. Mary's Park
28. Stanton Street
29. Throggs Neck
30. University Avenue Rehab

Brooklyn

31. Albany I
32. Albany II
33. Armstrong I
34. Atlantic Terminal Site 4B
35. Bay View
36. Bed Stuy Rehab (*solo visit Asha Muldro*)
37. Belmont-Sutter Area
38. Berry South – 9th Street
39. Borinquen Plaza
40. Boulevard
41. Breukelen

42. Brown
43. Bushwick
44. Cooper Park
45. Cypress Hills
46. Farragut
47. Garvey (Group A)
48. Glenmore Plaza
49. Glenwood
50. Hope Gardens
51. Howard
52. Hughes Apartments
53. Independence Tower
54. Ingersoll Houses
55. Lafayette
56. Low
57. Marcy Houses
58. Marcy Avenue-Greene Avenue Site A
59. Pennsylvania Avenue – Wortman Avenue
60. Pink
61. Red Hook West
62. Stuyvesant Gardens I
63. Stuyvesant Gardens II
64. Taylor-Wythe
65. Tompkins
66. Williams Plaza
67. Williamsburg
68. Wycoff Gardens

Manhattan

69. Alfred E. Smith
70. Baruch
71. Clinton
72. Frederick Douglas
73. Grant Houses
74. Harlem River
75. Hernandez
76. Isaacs Houses
77. King Towers
78. Laguardia
79. Lexington
80. Lincoln
81. Manhattanville
82. Metro North Plaza
83. Polo Grounds Towers
84. RIIS I

- 85. RIIS II
- 86. Robinson
- 87. Samuel (City)
- 88. Seward Park Extension
- 89. Smith
- 90. St. Nicholas
- 91. Taft
- 92. Upaca Site 5
- 93. Upaca Site 6
- 94. Wagner
- 95. Washington
- 96. White
- 97. Wilson
- 98. WSUR Brownstones

Staten Island

- 99. South Beach
- 100. Stapleton
- 101. Todt Hill

Queens

- 102. Astoria
- 103. Baisley Park
- 104. Beach 41st
- 105. Conlon-Lifhe
- 106. International Tower
- 107. Pomonok
- 108. Queensbridge N
- 109. Queensbridge S
- 110. Ravenswood
- 111. Redfern
- 112. Shelton House
- 113. South Jamaica I
- 114. South Jamaica II
- 115. Woodside