# CITY OF PITTSBURG
# AGENDA

**DECEMBER 20, 2021**

**CITY HALL COUNCIL CHAMBER**
**65 CIVIC AVENUE, PITTSBURG, CA**

**CLOSED SESSION**
**6:00 P.M.**

**REGULAR MEETINGS**
**7:00 P.M.**

## CITY COUNCIL
## HOUSING AUTHORITY
## PITTSBURG ARTS AND COMMUNITY FOUNDATION
## PITTSBURG POWER COMPANY
## SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II
## SUCCESSOR AGENCY

**PRESIDING**

**Holland Barrett White, Mayor/Chair**
**Shanelle Scales-Preston, Vice- Mayor/Chair**
**Juan Antonio Banales, Council Member/Board Member**
**Jelani Killings, Council Member/Board Member**
**Marilyn "Merl" Craft, Council Member/Board Member**

**FOR HOUSING AUTHORITY:**
**S.L. Floyd, Housing Authority Member**
**Annie Hill Herring, Housing Authority Member**

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Pittsburg City Council meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City's website at www.pittsburgca.us. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

AUDIENCE REMARKS

The Audience Remarks period is for the public to comment on any items scheduled to be heard during the Closed Session portion of the meeting, if applicable.

6:00 P.M. - CONVENE IN CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Section 54956.8:

   Property: Southwest corner of Center Drive and Railroad Avenue (APN 086-100-045); Negotiator for the City of Pittsburg: Garrett Evans and Maria Aliotti; Negotiating Party: Stay Cal Pittsburg, LLC; Under Negotiations: Both price and terms of payment

2. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6:

   City designated representatives: Garrett Evans, Stacy Shell, Charles Sakai, Sloan Sakai Yeung & Wong LLP

   Employee organizations: American Federation of State, County, and Municipal Employees Local 512 Management/Professional/Confidential Unit and Miscellaneous A Unit; Pittsburg Police Officers' Association; Pittsburg Police Managers Group; Teamsters Local 856; International Brotherhood of Electrical Workers Local 1295

   Unrepresented employees: Management Group; Senior Executive Team

7:00 P.M. - CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PRESENTATIONS

3. Quarterly Overview of Use of Force by Law Enforcement Personnel and Overview of Internal Affairs Investigations

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

COMMITTEE REPORTS

Council Members may make a report on their committee assignments at this time. (see attached list of adhoc committees and other public agencies in which Council members particiapte). (No Action Required)

PUBLIC COMMENTS

See Public Advisory.

HOUSING AUTHORITY

PUBLIC HEARING

4. Adoption of a Housing Authority Resolution Approving the Housing Authority of the City of Pittsburg Administrative Plan for 2021

   As required compliance to the U. S. Department of Housing and Urban Development ("HUD"), the Housing Authority of the City of Pittsburg (the "Housing Authority") has revised its Administrative Plan to incorporate significant modifications or amendments to policies which address the delivery of housing services in the community. The Administrative Plan outlines the policies and procedures of the Housing Authority

CONSENT CALENDAR

5. Minutes of November 15, 2021, Minutes of November 29, 2021

6. Disbursement List of October 31, 2021 and November 30, 2021

HOUSING AUTHORITY MEMBER REMARKS

ADJOURNMENT OF THE HOUSING AUTHORITY

CITY COUNCIL MEETING

COMBINED CITY COUNCIL AND PITTSBURG ARTS AND COMMUNITY FOUNDATION CONSIDERATION

7. Adoption by Minute Order of Council Member Committee Assignments for 2022, and Confirmation of Posting of FPPC Form 806 "Agency Report of Public Official Appointments"

   In accordance with the City of Pittsburg "Policy and Procedure for City Council" adopted by the City Council on September 4, 2001 by Resolution No. 01-9475, the Mayor and Vice-Mayor shall appoint individual Council Members to standing and ad hoc committees and such appointments shall be approved by the entire Council at its first meeting following reorganization. This also confirms posting of the FPPC Form 806 "Agency Report of Public Official Appointments."

8. Adoption of a City Council Resolution Approving, Allocating Funding and Authorizing Execution of a Consulting Services Agreement for Project 3334, Broadcast System Upgrade Project

   Project 3334, the Broadcast System Upgrade Project (the "Project) is to upgrade the broadcasting system in the Council Chamber to meet the current and future expectations for our broadcasting needs. If approved, this resolution will approve the Project, allocate funds and authorize a Consultant Agreement with Smith, Fause & McDonald Inc. in the amount of $26,660 for design of the Project.

9. Adoption of a PACF and City Council Resolution Approving a Sublease Agreement between the Pittsburg Arts and Community Foundation, Inc. and DVWB, LLC for 51 Marina Blvd, Suite C

   Staff requests approval of a sublease agreement between the Pittsburg Arts and Community Foundation, Inc. ("Foundation") and DVWB, LLC, a California limited liability company ("Tenant"), for the vacant space at 51 Marina Boulevard Suite C. Under the proposed agreement, the premises would be subleased to the Tenant for a period of three years.

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, SUCCESSOR AGENCY AND SOUTHWEST PITTSBURG GHAD II CONSENT CALENDAR

10. Minutes of November 15, 2021, November 29, 2021 and December 6, 2021

25. Adoption of a Successor Agency Resolution Declaring 610 Railroad Avenue (APN 085-390-077) as Surplus Land

    The Successor Agency for the Redevelopment Agency of the City of Pittsburg (Successor Agency) is declaring 610 Railroad Avenue (APN 085-390-077) (Property) as surplus land, and making it available to parties who may be interested in acquiring and developing the Property.

11. Adoption of a City Council Resolution to Amend the Master Pay Schedule as Required by California Public Employees' Retirement System

    To comply with CalPERS' interpretation of the requirements of California Code of Regulations, Title 2, Section 570.5 by amending the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule. The single master pay schedule will be submitted to the City Council for approval each time any single MOU or compensation plan is brought to the City Council for approval.

12. Adoption of a City Council Resolution Approving the Continuation of the Contamination Recycling Fee for Mt. Diablo Resource Recovery

    Pittsburg Disposal and Debris Box Service, Inc. DBA Mt. Diablo Resource Recovery (MDRR-Pittsburg) requested and received a discretionary adjustment or Contamination Recycling Fee for the additional sorting and processing of recyclables required to remove contaminates in order to meet new requirements by commodity processing facilities. MDRR-Pittsburg is requesting the discretionary rate adjustment be extended until the State-mandate SB 1383, California's Short-lived Climate Pollutants, Organic Waste Reductions (SB 1383) new curbside program and rate increase is presented to City Council in 2022.

13. Receive and File Staff's Report on the Review of Development Impact Fees Received by the City of Pittsburg that are Subject to AB 1600 Reporting Requirements

    AB 1600 (Government Code Sections 66000–66008) requires cities to justify and account for developer fees which they enact, increase or impose as a condition of new development for the purposes of financing "public facilities and improvements." AB 1600 also requires an annual review of the developer fees that have been collected and spent during the previous year. This report fulfills the AB 1600 requirements.

14. Adoption of a City Council Resolution Approving the Terms and Conditions of Employment for Employees in the Teamsters Union, Local 856 for the Period July 1, 2021, through June 30, 2022

    The Memorandums of Understanding between the City of Pittsburg and the Teamsters Union, Local 856 expired on June 30, 2021. The City and Teamsters Union representatives started negotiation sessions in March 2021 to develop a successor Memorandum of Understanding (MOU) and have reached a tentative agreement on the terms and conditions of employment for fiscal year 2021-2022 that provides for a one-year contract term, two-point five percent (2.5%) cost of living adjustment (COLA), one-thousand-dollar ($1,000.00) lump sum payment, and specific revisions to certain articles of the MOU to be amended. Should Council approve these terms, staff will prepare a successor MOU that incorporates the agreed upon changes.

15. Adoption of a City Council Resolution Authorizing the City Manager to Execute Settlement Participation Forms, California State-Subdivision Agreements And Request Direct Payment In the Nationwide Opioid Litigation Settlement

    A nationwide opioid litigation settlement proposal allows cities and counties to participate in the settlement. Pursuant to an intrastate allocation agreement, the City of Pittsburg could receive an annual monetary allocation for 18 years if the City chooses to participate in the settlement before January 2, 2022, and requests direct payment of the proceeds.

16. Adoption of City Council Resolution to Approve the Purchase of a 2022 Peterbilt 548 Dump Truck

    The City maintains a fleet of vehicles and equipment necessary for police operations and for maintenance of the City's infrastructure, including a dump truck that needs replacement. If approved, this resolution will authorize a purchase contract for a new 2022 Peterbilt 548 dump truck.

17. Adoption of a City Council Resolution Authorizing an Application to the California Department of Forestry and Fire Protection Urban Forest Management Grant Program for an Urban Forest Management Plan

    Staff recommends City Council approval of a resolution authorizing a grant application to the California Department of Forestry and Fire Protection for a

project to inventory the City's trees and develop an Urban Forest Management Plan.

18. Adoption of a City Council Resolution to Accept Project 5066, Water Treatment Plant Filter Gallery Valve Replacement Project as Complete and Authorize the City Engineer to File a Notice of Completion

    Project 5066, Water Treatment Plant Filter Gallery Valve Replacement Project (the "Project") removed and replaced select filter valves, actuators, and spot piping repairs at the City's Water Treatment Plant. This Resolution will accept the construction contract as complete and authorize the City Engineer to file a notice of completion.

19. Adoption of a City Council Resolution Authorizing an Application and Accepting a Grant from the State of California General Fund for Project 3333, California Theatre Marquee Project

    State Sen. Steve Glazer successfully advocated for the City's project to renovate the California Theatre, securing a commitment of $400,000 to update the marquee and make needed improvements below stage. If approved, the resolution will authorize staff to submit a grant application to the state Department of Natural Resources and allocate the funds to the project.

20. Adoption of a City Council Resolution to Accept Project 4063, 2020/2021 CDBG ADA Curb Ramp Installation Project as Complete and Authorize the City Engineer to File a Notice of Completion

    Project 4063, 2020/2021 CDBG ADA Curb Ramp Installation Project constructed 8 curb ramps in the Westwood Gardens neighborhood, 10 curb ramps in the High School Village area, 10 curb ramps in the Vista Del Rio area and 12 curb ramps in the Hillside neighborhood. This Resolution will accept the construction contract as complete and authorize the City Engineer to file a notice of completion.

21. Adoption of City Council Resolution Authorizing City Manager to Execute Purchase Contract of New Fleet Vehicles

    The City maintains a fleet of vehicles and equipment necessary for police operations and for maintenance of the City's infrastructure. The City solicited bids from multiple vendors for replacement of vehicles that have lower reliability and are requiring more maintenance. If approved, the resolution authorizes the purchase of 17 new vehicles from All Star Ford of Pittsburg.

22. Adoption of a City Council Resolution Accepting the Plans and Specifications and Authorizing Award of Project 4065, 2021/2022 CDBG ADA Curb Ramp Installation Project

    Project 4065, 2021/2022 CDBG ADA Curb Ramp Installation Project ("the Project') is for the construction of 36 curb ramps in the neighborhoods located in the Willow Landing and Hillsdale subdivisions. Adoption of this Resolution will accept the plans and specifications for the Project and authorize the City Manager

to award a construction contract to TNB Contractors Inc. of Antioch, California.

23. Adoption of an Ordinance Approving a Zoning Map Amendment for the Home2Suites Hotel Project, AP-20-1536 (GP, RZ, UP, DR)

    On November 15, 2021, the City Council held a public hearing on a request for approval of a 115-room hotel on 2.09-acre site located at 2112 Loveridge Road in the IP (Industrial Park) district (Assessor's Parcel No. 088-240-068). After closing the public hearing, the Council adopted Resolution No. 21-14011 approving a General Plan map amendment, use permit, and design review for the project. The Council also introduced and waived further reading of an ordinance approving a zoning map amendment. The ordinance is now ready for City Council adoption.

24. Adoption of a Resolution Making Findings in Support of Continuing to Hold Public Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

    Assembly Bill 361 (AB 361) amended the Brown Act to allow cities to continue to meet remotely during proclaimed states of emergency under specified conditions. Findings must be made every 30 days.

## COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

Council Members may request items to be considered for future agendas. An item will only be brought forward with a majority vote and will appear on a future agenda with staff recommendations for further Council consideration.

## COUNCIL MEMBER REMARKS

Council Members may make brief announcements or informal comments at this time. (No Action Required)

## ADJOURNMENT to January 18, 2022

**PUBLIC ADVISORY:**
**THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC**

This meeting will be held in compliance with California Government Code Section 54953(e)(2), which was added by Assembly Bill 361 which became effective Oct. 1, 2021, pursuant to the Governor's Executive Order N-15-21. On December 6, 2021, the City Council authorized hybrid meetings of the City Council and Commissions upon findings made in Resolution 21-14024 as required by state law. In addition, all Boards authorized teleconferenced meetings. City Council Members/Board Members/Commissioners and appropriate staff will be participating in person in the Council Chamber. The Public will continue virtual participation via Zoom. Pursuant to Government Code Section 54953(e)(3), the Council/Board/Commission authorization is effective for 30 days and may be extended every 30 days if the Council/Board/Commission makes required findings.

The public is invited to watch and participate in meetings via the methods listed below:

Watch the live meeting via the City's webcast (www.pittsburgca.gov), or on Delta TV Comcast Channel 32, or Delta TV AT&T U-Verse Channel 99.

Members of the public may comment live via Zoom video conferencing. Download Zoom from its website: www.zoom.com. Zoom also allows you to join the meeting by phone. Join the meeting at any point but be sure you are in the meeting prior to the City Council/Board/Commission consideration of the item on which you would like to provide comment.

From a PC, Mac, iPad, iPhone or Android:

- Webinar ID: **811 2886 4112**
- Passcode: **106491**
- By phone: **US: +1-669-900-6833 or +1346-348-7799**

Speakers are asked to provide their name and city of residence for the record, although providing this is not required for participation.

Each speaker will be afforded up to 3 minutes to speak (at the discretion of the Mayor/Chair).

When the Mayor/Chair opens a public comment period on the item on which you would like to comment, please use the "Raise Hand" feature (or press *9 if connecting via telephone) which will alert staff that you have a comment to provide. You will be invited to speak when it is your turn. Speakers will be muted until their opportunity to provide public comment. You will not be seen or heard until it is your turn to speak. You will be muted again after the allotted time to speak. Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

When making public comment during the meeting, please

1. Try to be in a room or space without a lot of background noise.
2. Mute your microphone until it is your turn to speak, then mute your speakers while speaking.
3. Have a strong, reliable internet connection or cell phone signal.

In the event of a disruption which prevents the City Council/Board/Commission from broadcasting the meeting to the public or from receiving public comment, no further action will be taken at the meeting.

Written comments provided by the public will be accepted and given to the Council/Board/Commission although they will not be read at the meeting.

## NOTICE TO PUBLIC

### GENERAL INFORMATION

Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except City holidays). The full packets are also located on the City's website at www.pittsburgca.gov. If any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports or documents will be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

### SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given up to three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

### PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

### NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

### DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and electronic devices, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

### LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.pittsburgca.gov on the Streaming Media page. Past meetings are also archived on that webpage. Watch the live meeting via the City's webcast (www.pittsburgca.gov), or on Delta TV Comcast Channel 32, or Delta TV AT&T U-Verse Channel 99. For more information, please contact the City Clerk's office at 252-4850.

**City Council Outside Agency / Liaison / Sub-Committees Assignments - 2021**

**Updated August 16, 2021**

| OUTSIDE AGENCY BOARDS | COUNCIL MEMBER(S) | TYPE | MEETS | STAFF |
|---|---|---|---|---|
| ABAG | Merl Craft / Holland White Alternate | Standing | Annual | G. Evans |
| Delta Diablo** | Juan Banales / Shanelle Scales-Preston Alt. | Standing | 2nd Wednesday | R. Abono |
| East Co. Co. County Habitat Conservancy | Juan Banales / Jelani Killings Alternate | Standing | Monthly | Planning |
| East County Water Management | Juan Banales / Jelani Killings Alternate | Standing | Annual | R. Abono |
| MCE Clean Energy Board | Shanelle Scales-Preston / Holland White Alt. | Standing | 4 Per Year | D. Buchanan |
| TRANSPLAN / ECCRFFA | Holland White / Juan Banales Alternate | Standing | 2nd Thursday | R. Abono |
| Tri-Delta Transit (2 reps)*** | S. Scales-Preston & Merl Craft / Jelani Killings Alt. | Standing | Last Wednesday | R. Abono |

| LIAISON TO | COUNCIL MEMBER(S) | TYPE | MEETS | STAFF |
|---|---|---|---|---|
| East Bay League of Calif. Cities | Shanelle Scales-Preston / Merl Craft Alt. | Standing | 3rd Thursday | *Rotational |
| Mayor's Conference | Merl Craft / Holland White Alt. | Standing | 1st Thursday | G. Evans |
| School Districts Committee (2x2) | Merl Craft & Holland White / Shanelle Scales-Preston Alt. | Standing | 2nd Thursday even months | G. Evans |

| SUBCOMMITTEES | COUNCIL MEMBER(S) | TYPE | MEETS | STAFF |
|---|---|---|---|---|
| American Rescue Plan Act (ARPA) | Merl Craft & Holland White | Ad Hoc | As needed | G. Evans |
| CAC CDBG Subcommittee | S. Scales-Preston & Jelani Killings / Holland White Alt. | Standing | As needed | M. Aliotti |
| City Council Policy and Procedures Review | Juan Banales & Merl Craft | Ad Hoc | As needed | G. Evans |
| City Infrastructure and Transportation | Holland White & Juan Banales / S. Scales-Preston Alt. | Standing | Ad needed | G. Evans |
| Community Services Subcommittee | Merl Craft & Shanelle Scales-Preston / Juan Banales Alt. | Standing | As needed | M. Aliotti |
| Constituent Management Services | S. Scales-Preston & Juan Banales / Holland White Alt. | Ad Hoc | As needed | G. Evans |
| Government Performance Subcommittee | Holland White & Juan Banales | Ad Hoc | As needed | G. Evans |
| Hills Committee | Juan Banales & Jelani Killings / Merl Craft Alt. | Ad Hoc | As needed | G. Evans |
| Pittsburg Recognition Committee | Merl Craft / Juan Banales Alt. | Standing | As needed | J. Hecht |
| Economic Develop/Waterfront Subcommittee | Jelani Killings & Holland White / Juan Banales Alt. | Standing | As needed | J. Davis |
| Finance Subcommittee | Juan Banales & Holland White / Jelani Killings Alt. | Standing | As needed | P. Rodrigues |
| Land Use Subcommittee | Juan Banales & Holland White / Merl Craft Alt. | Standing | As needed | J. Davis |
| Pittsburg Arts & Community Foundation | Merl Craft & S. Scales-Preston / Jelani Killings Alt. | Standing | As needed | G. Evans |
| Pittsburg Police Activities League (PAL) | S. Scales-Preston & Holland White / Juan Banales Alt. | Standing | Monthly | B. Addington |
| Power Company Advisory | S. Scales-Preston & Holland White / Juan Banales Alt. | Standing | As needed | D. Buchanan |
| Public Safety Subcommittee | Holland White & Shanelle Scales-Preston | Standing | As needed | B. Addington |
| Sister City Committee | Jelani Killings & Merl Craft / Holland White Alt. | Standing | As needed | K. Simonton |

*Rotational Staff as assigned by City Manager
**Stipend of $209 per month
***Stipend of $100 per month

COMMISSION/SUBCOMMITTEE MEETING SCHEDULE

Following is a tentative list of currently scheduled Commission meetings for the upcoming month. For further information, please visit our website at www.ci.pittsburg.ca.us and click on the CALENDAR link for meetings, dates, times and locations.

| Commission | Tentative Meeting Dates |
|---|---|
| Planning Commission | 2nd and 4th Tuesdays |
| Community Advisory Commission | 1st Wednesday |
| | |

Planning Commission meetings are regularly held the second and fourth Tuesdays of the month in the Pittsburg City Hall Council Chambers.

Community Advisory Commission meetings are regularly held the first Wednesday of the month in the Pittsburg City Hall Council Chambers.

In addition to the Commission Meetings listed above, there are several Council Member Subcommittees that meet on an “as needed basis”. For a list of subcommittees that Council Members and staff are assigned to, please see the “Council Committee List” attached to the agenda.

Subcommittee Meetings that are anticipated to occur in the coming month vary. The meeting dates, times and locations for these meetings are yet to be determined. This information will be posted on the City’s website, www.ci.pittsburg.ca.us , as soon as it is determined. Please check the Calendar on the City’s website for information.

For further information, contact the City staff member assigned to that Commission or Subcommittee.

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Chair and Governing Board Members

**FROM:** Garrett Evans, Executive Director

**SUBJECT:** Adoption of a Housing Authority Resolution Approving the Housing Authority of the City of Pittsburg Administrative Plan for 2021

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

As required compliance to the U. S. Department of Housing and Urban Development ("HUD"), the Housing Authority of the City of Pittsburg (the "Housing Authority") has revised its Administrative Plan to incorporate significant modifications or amendments to policies which address the delivery of housing services in the community. The Administrative Plan outlines the policies and procedures of the Housing Authority

## FISCAL IMPACT

Adoption of the Administrative Plan has no fiscal impact to the General Fund.

## RECOMMENDATION

Staff recommends the Housing Authority Board open the public hearing, receive public comment, close the public hearing and adopt the Resolution for approval of the Administrative Plan for 2021.

## BACKGROUND

When there are significant modifications to the policies of the Housing Authority, a public hearing is required regarding these policy changes. The Housing Authority has made significant modifications, as reflected by policy changes in Chapters 4, 5, 11 and 17 of the Administrative Plan for 2021.

## SUBCOMMITTEE FINDINGS

The revisions to the Administrative Plan have not been discussed in a subcommittee.

## STAFF ANALYSIS

The Housing Authority administers programs with an annual grant as determined by HUD. The entire format and wording have been modified to the Administrative Plan being presented for approval. The new format states the federal regulation, explains the policy pertaining to the regulation and provides the Housing Authority's policy regarding the regulation. Many of these revisions to policies will increase housing options, address local housing needs and provide additional resources for Pittsburg residents.

The changes in Chapter 4 include revisions to the Wait List Policy creating future wait lists in smaller increments that expire every two years. These revisions are intended to reduce the time applicants are waiting to be offered assistance. Designing the list to expire every two years will give more applicants more frequent chances to be selected and reduce the administrative burden of keeping the list updated.

The changes in Chapter 5 clarify the family composition when considering a pregnant woman to include two applicants. This language is required to meet HUD's latest update.

The changes in Chapter 11 clarifies language about adding other adult members providing families opportunities for other adults to be added without impacting the budgetary constraints that earlier policies were designed to address.

The changes in Chapter 17 introduce recent revisions in outreach methodology language to implement the project-based voucher (PBV) program. This new language will ensure the Housing Authority's Administrative plan is compliant with the recruitment of applicants for Veteran's Square.

In summary, none of these changes will negatively impact the families being assisted but will provide the Housing Authority more current and compliant language to HUD's regulatory updates and guidelines.

The Housing Authority has revised the Administrative Plan in accordance with HUD's requirements. This plan defines the agency's goals for providing housing and offering support to families needing such assistance. The Housing Authority posted the Public Notice for comment on November 2, 2021 and received no comments or responses.

ATTACHMENTS:

Report Prepared By:

BEFORE THE HOUSING AUTHORITY OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a Housing Authority Resolution )
Approving the Pittsburg Housing Authority ) RESOLUTION NO. 21-
Administrative Plan for 2021 )

WHEREAS, the Housing Authority of the City of Pittsburg (the "Housing Authority") has made significant modifications, as reflected in the format and language of the Administrative Plan for 2021, which incorporates the revision to the policy; and

WHEREAS, a Public Notice was published in the East County Times on November 02, 2021; commencing the 45-day period to submit written comments. The public hearing scheduled for this evening is to address any written comments received during the noticing period and to allow comments prior to the approval of the Administrative Plan for 2021 by the Housing Authority board; and

WHEREAS, in compliance with federal regulations, the Housing Authority has revised its Administrative Plan addressing the delivery of housing services in the Pittsburg community and thereby, satisfying the Department of Housing and Urban Development ("HUD") requirements to update the Administrative Plan; and

WHEREAS, the adoption of the Housing Authority Administrative Plan for 2021 is in the best interest of the citizens of Pittsburg.

NOW, THEREFORE BE IT RESOLVED that the Governing Board of the Housing Authority of the City of Pittsburg hereby:

1. Declares the Administrative Plan for 2021 is a thorough and complete document.

2. Adopts this Resolution and the Administrative Plan for 2021 incorporated herein by this reference.

3. Makes the Administrative Plan for 2021 available for review at the Housing Authority located at 916 Cumberland Street, Pittsburg, CA 94565 and on the City of Pittsburg website.

PASSED AND ADOPTED by the Governing Board of the Housing Authority of the City of Pittsburg at a regular meeting on the 20th day of December, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Chair

ATTEST:

_____
Alice E. Evenson, Agency Secretary

# Housing Authority of the City of Pittsburg

## ADMINISTRATIVE PLAN

## FOR THE

## HOUSING CHOICE VOUCHER PROGRAM

916 Cumberland Street
Pittsburg, CA 94565

Approved by the HACP Board: 12-20-2021

Submitted to HUD:

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**GLOSSARY**

A. Acronyms Used in the Housing Choice Voucher Program
B. Subsidized Housing Terminology

## ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

### AUTHORITIES FOR POLICIES IN THE MODEL ADMINISTRATIVE PLAN

The authority for public housing agency (PHA) policies is derived from many sources. Primary among these sources are federal statutes, federal regulations, and guidance issued by the United States Department of Housing and Urban Development (HUD). State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy as long as it does not conflict with federal requirements or prohibitions.

#### HUD

HUD provides the primary source of PHA policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and current HUD handbooks is mandatory.

HUD also provides guidance to PHAs through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing PHA policy on HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations, and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

Material posted on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations in various aspects of the program.

#### State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

#### Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of PHAs.

### RESOURCES CITED IN THE MODEL ADMINISTRATIVE PLAN

The model administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the model administrative plan may contain the entire name of the document or resource.

Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the model administrative plan or that may be helpful to you.

## Abbreviations

Throughout the model administrative plan, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited in the model administrative plan.

| Abbreviation | Document |
|---|---|
| **CFR** | Code of Federal Regulations |
| **HCV GB** | Housing Choice Voucher Program Guidebook (7420.10G), April 2001. |
| **HUD-50058 IB** | HUD-50058 Instruction Booklet |
| **RHIIP FAQs** | Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions. |
| **VG** | PIH Notice 2004-01 Verification Guidance, March 9, 2004. |
| **HB 4350.3** | Occupancy Requirements of Subsidized Multifamily Housing Programs |

## Resources and Where to Find Them

Following is a list of resources helpful to the PHA or referenced in the model administrative plan, and the online location of each.

| Document and Location |
|---|
| Code of Federal Regulations<br>http://www.gpoaccess.gov/cfr/index.html |
| Earned Income Disregard FAQ<br>www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm |
| Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule<br>http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf |
| Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data<br>http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf |
| Executive Order 11063<br>http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm |

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|---|
| Federal Register<br>http://www.access.gpo.gov/su_docs/aces/fr-cont.html |
| General Income and Rent Determination FAQs<br>www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm |
| Housing Choice Voucher Program Guidebook (7420.10G), April 2001<br>www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm |
| HUD-50058 Instruction Booklet<br>http://portal.hud.gov/hudportal/documents/huddoc?id=50058i.pdf |
| Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004<br>http://www.hud.gov/offices/fheo/library/huddojstatement.pdf |
| Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007<br>http://www.hud.gov/offices/fheo/promotingfh/FederalRegistepublishedguidance.pdf |
| Notice PIH 2012-10, Verification of Social Security Numbers (SSNs) and Supplemental Security<br>Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report<br>http://portal.hud.gov/huddoc/pih2012-10.pdf |
| Notice PIH 2010-19, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System<br>http://www.hud.gov/offices/pih/publications/notices/10/pih2010-19.pdf |
| Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice<br>http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf |
| OMB Circular A-133<br>http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010 |
| Project-Based Voucher Program; Final Rule<br>http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf |

| |
|---|
| Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.<br>www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm |
| VAWA Final Rule<br>http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf |
| Verification FAQ<br>www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm |
| Verification Guidance, March 2004 (attachment to Notice PIH 2004-1)<br>http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf |

The HUD Web site is http://portal.hud.gov/hudportal/HUD.

Guidebooks, handbooks and other HUD resources may be found at the HUDClips Web site:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips

***This Administrative Plan first explains HUD's policies section by section by defining what is required of all housing authorities also known as PHAs. The policies of the Housing Authority – Housing Authority of the City of Pittsburg (HACP), modeled after HUD's policies, specifically pertains to this Housing Authority and is explained as a subsection to each HUD policy.***

# Chapter 1

# OVERVIEW OF THE PROGRAM AND PLAN

## INTRODUCTION

The Public Housing Agency also known as PHA receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development abbreviated as HUD. A PHA is not a federal department or agency. A PHA is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations, and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the PHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent, and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

## PART I: HOUSING AUTHORITY OF THE CITY OF PITTSBURG

### 1-I.A. OVERVIEW

This part explains the origin of the HACP's creation and authorization, the general structure of the organization, and the relationship between the HACP Board and staff.

### 1-I.B. ORGANIZATION AND STRUCTURE OF THE PUBLIC HOUSING AGENCY

The HCV program, also known as Section 8, is a tenant-based assistance and is funded by the federal government and administered by the **Housing Authority of the City of Pittsburg also known as the HACP** for the jurisdiction of the **City of Pittsburg in the County of Contra Costa**.

The officials of the PHA are known as commissioners or, collectively, as the board of commissioners (Board). At the HACP, the City Council and two HACP program beneficiaries serve as the Board of Commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the HACP conducts business, ensuring that policies are followed by HACP staff and ensuring that the HACP

is successful in its mission. The Board is responsible for preserving and expanding the HACP's resources and assuring the HACP's continued viability.

Formal actions of the HACP are taken through written resolutions, adopted by the Board and entered into the official records of the HACP.

The principal staff member of the HACP is the executive director (ED), hired by the City Council of the City of Pittsburg. The ED is charged to hire the Housing Manager who is directly responsible for carrying out the policies established by the Board and is delegated the responsibility for hiring, training and supervising the HACP staff in order to manage the day-to-day operations of the HACP. The Housing Manager under the direction of the ED is responsible for ensuring compliance with federal and state laws and directives for the programs managed. In addition, the Housing Manager's duties include budgeting and financial planning for the HACP.

### 1-I.C. Housing Authority of the City of Pittsburg's MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

***HACP Policy:***

The HACP 's mission is to provide safe, decent and sanitary housing conditions for very low-income families and to manage resources efficiently. The HACP is committed to promote personal, economic, and social upward mobility to provide families the opportunity to make the transition from subsidized to non-subsidized housing.

### 1-I.D. THE Housing Authority of the City of Pittsburg's PROGRAMS

The following programs are included under this Administrative Plan:

***HACP Policy:***

The HACP's Administrative Plan is applicable to the operation of the Housing Choice Voucher (HCV) program, the Project Based Voucher (PVB) program, the Veteran's Affairs Supportive Housing (VASH) and the Housing Choice Voucher Homeownership program.

### 1-I.E. THE Housing Authority of the City of Pittsburg's COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the HACP is committed to providing excellent service to HCV program participants, owners, and to the community. The HACP's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.

- Provide decent, safe, and sanitary housing, in compliance with program housing quality standards, for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational, and other human service needs.
- Promote fair housing and equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the HACP's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the HACP's support systems and a high level of commitment to our employees and their development.

The HACP will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

## 1-I.F. LOCAL GOALS/OBJECTIVES [24 CFR 982.1]

For the next five years, the agency has established the following primary objectives:

***Objective One: To assure that the housing subsidy programs for which it is funded are well run.*** *The* HACP *cannot meet all the housing needs of the low-income population in Pittsburg. Primarily, the HACP is funded to operate the HCV Program. Consequently, its first priority is to assure that this program is efficient which is defined as a content score of at least 90% and above on the Section 8 Management Assessment Program (SEMAP). Currently, with a score of 100%, the HACP is considered a "High Performer" under SEMAP. The HACP plans to maintain that score at that level for the period covered by this Administrative Plan.*

***Objective Two: To expand the number of housing opportunities.*** *Although there is no new funding for low-income housing, the HACP continues to seek ways of expanding the supply of affordable housing. In that regard, the HACP plans to continue meeting with landlords to inform and encourage participation in the program.*

***Objective Three: To increase the number of tenant-based assistance through the Veterans Assisted Supportive Housing Program (VASH).*** *This change will*

*likely have a significant impact on the HACP as the estimated number of units is expected to increase over the next couple of years.*

## PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

### 1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the reader to better understand the program.

The **United States Housing Act of 1937** is responsible for the birth of federal housing program initiatives and was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The **Housing and Community Development Act of 1974** created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The Housing and Community Development Act of 1974 represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality (Housing Quality Standards or HQS) and was within certain HUD-established rent limitations (Fair Market Rents or FMR), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at thirty percent (30%) of the family's adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the PVB program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The **Housing and Community Development Act of 1987** authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of thirty percent (30%) of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than thirty percent (30%) of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher programs, with separate rules and requirements for each. From 1994 through

1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In **1998, the Quality Housing and Work Responsibility Act (QHWRA)**, also known as the Public Housing Reform Act, was signed into law. The Public Housing Reform Act eliminated all statutory differences between the Certificate and Voucher programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

## 1-II.B. HOUSING CHOICE VOUCHER PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by HUD. The HACP is afforded choices in the operation of the program which are included in the HACP’s Administrative Plan, a document approved by the Board of the HACP.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the HACP’s jurisdiction and may also be eligible to move under portability to other PHAs’ jurisdictions.

When a family is determined to be eligible for the program and funding is available, the HACP issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the HACP will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The HACP continues to make payments to the owner as long as the family is eligible for assistance and the housing unit continues to qualify under the program.

## 1-II.C. THE HOUSING CHOICE VOUCHER PARTNERSHIPS

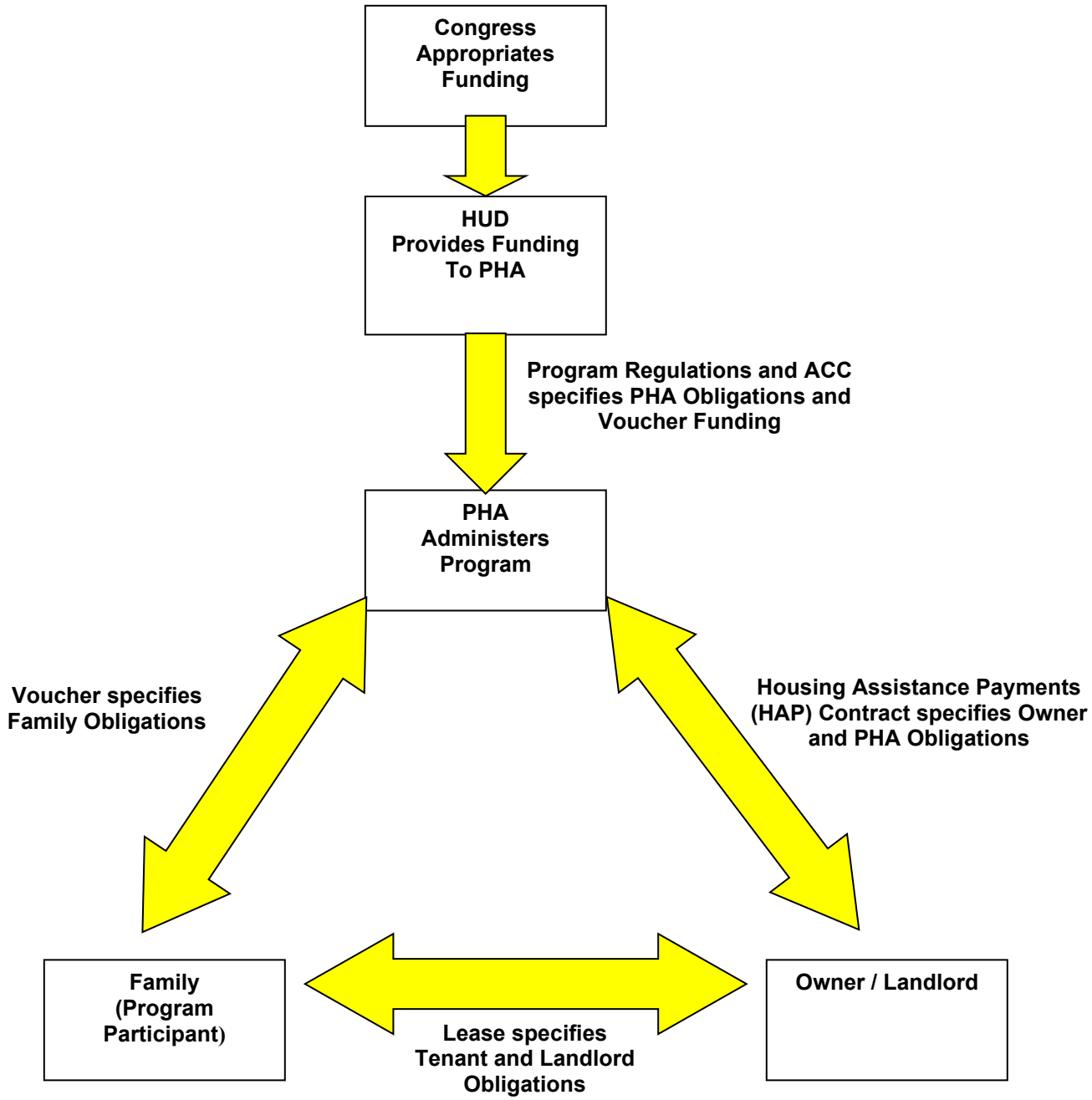
To administer the HCV program, the HACP enters into a contractual relationship with HUD (Consolidated Annual Contributions Contract). The HACP also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved, HUD, the HACP, the owner, and the family, have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents

that the parties execute to participate in the program.

The chart on the following page illustrates key aspects of these relationships.

**The HCV Relationships:**



### What Does HUD Do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices, and other guidance to implement HCV housing program legislation passed by Congress
- Allocate HCV program funds to PHAs
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements; and
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

### What Does the Housing Authority of the City of Pittsburg Do?

The HACP administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies to administer the program
- Review applications from interested applicants to determine whether they are eligible for the program
- Maintain a waiting list and process families for admission
- Issue vouchers to eligible families and provide information on how to lease a unit
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration
- Approve the rental unit (including assuring compliance with Housing Quality Standards and rent reasonableness), the owner, and the tenancy
- Make housing assistance payments to the owner in a timely manner
- Recertify families for continued eligibility under the program
- Ensure that owners and families comply with their contractual obligations
- Provide families and owners with prompt, professional service; and
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the HACP's Administrative Plan, and other applicable federal, state and local laws.

### What Does the Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters.

  - The HACP can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments (HAP) contract executed with the HACP
- Comply with all applicable fair housing laws and not discriminate against anyone
- Maintain the housing unit in accordance with Housing Quality Standards and make necessary repairs in a timely manner; and
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the lease.

**What Does the Family Do?**

The family has the following responsibilities:

- Provide the HACP with complete and accurate information as determined by the HACP to be necessary for administration of the program
- Make their best and most timely efforts to locate qualified and suitable housing
- Attend all appointments scheduled by the HACP
- Allow the HACP to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of Housing Quality Standards caused by the family
- Comply with the terms of the lease
- Comply with the family obligations of the voucher
- Not commit serious or repeated violations of the lease
- Not engage in drug-related or violent criminal activity
- Notify the HACP and the owner before moving or terminating the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any owner interest in the unit
- Promptly notify the HACP of any changes in family composition; and
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

## 1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

# PART III: THE HCV ADMINISTRATIVE PLAN

## 1-III.A. OVERVIEW AND PURPOSE OF THE ADMINISTRATIVE PLAN

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the HACP's agency plan. This Administrative Plan is a supporting document to the HACP agency plan and is available for public review as required by CFR 24 Part 903.

This Administrative Plan is set forth to define the HACP 's local policies for operation of the housing programs in accordance with federal laws and regulations. All issues related to the HCV program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

The HACP is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this Administrative Plan, HUD regulations will control.

Administration of the HCV program and the functions and responsibilities of HACP staff shall be in compliance with the HACP 's personnel policy and HUD regulations as well as all federal, state and local fair housing laws and regulations.

## 1-III.B. CONTENTS OF THE ADMINISTRATIVE PLAN [24 CFR 982.54]

HUD regulations at 24 CFR 982.54 define the policies that must be included in the administrative plan. They are as follow:

- Selection and admission of applicants from the HACP waiting list, including any HACP admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the HACP waiting list (Chapter 4),
- Issuing or denying vouchers, including HACP Policy governing the voucher term and any extensions of the voucher term. If the HACP decides to allow extensions of the voucher term, the HACP Administrative Plan must describe how the HACP determines whether to grant extensions, and how the HACP determines the length of any extension (Chapter 5),
- Any special rules for use of available funds when HUD provides funding to the HACP for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4),
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12),
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13)

- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2)
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13)
- Subsidy standards (Chapter 5)
- Family absence from the dwelling unit (Chapter 12)
- How to determine who remains in the program if a family breaks up (Chapter 3)
- Informal review procedures for applicants (Chapter 16)
- Informal hearing procedures for participants (Chapter 16)
- The process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term (Chapter 16)
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8)
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15)
- Policies concerning payment by a family to the HACP of amounts the family owes the HACP (Chapter 16)
- Interim redeterminations of family income and composition (Chapter 11)
- Restrictions, if any, on the number of moves by a participant family (Chapter 10)
- Approval by the Board or other authorized officials to charge the administrative fee reserve (Chapter 16)
- Procedural guidelines and performance standards for conducting required HQS inspections (Chapter 8); and
- HACP screening of applicants for family behavior or suitability for tenancy (Chapter 3).

**Mandatory vs. Discretionary Policy**

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects the HACP to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the HACP discretion. The HACP 's Administrative Plan is the foundation of those policies and procedures. HUD’s directions

require HACP to make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants.

Creating policies based upon HUD guidance is not mandatory but provides a PHA with a “safe harbor.” HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD’s safe harbor, but PHAs should carefully think through those decisions.

## 1-III.C. ORGANIZATION OF THE ADMINISTRATIVE PLAN

The plan is organized to provide information to users in particular areas of operation.

## 1-III.D. UPDATING AND REVISING THE ADMINISTRATIVE PLAN

The HACP will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the Board of the agency, the pertinent sections included in the PHA Agency Plan, and a copy provided to HUD.

***HACP Policy:***

The HACP may review and update the Administrative Plan once a year, and more often if needed, to reflect changes in regulations, HACP operations, or when needed to ensure staff consistency in operation.

# Chapter 2

# FAIR HOUSING AND EQUAL OPPORTUNITY

## INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA's HCV operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the PHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the HCV program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973 and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register.*

## PART I: NONDISCRIMINATION

### 2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)

- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)

When more than one civil rights law applies to a situation, the laws will be read and applied together.

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

***HACP Policy:***

The HACP complies with the following laws:

**California Fair Employment and Housing Act (FEHA)**

**Unruh Civil Rights Act**

## 2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as PHA policies, can prohibit discrimination based on other factors.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”)

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

***HACP Policy:***

The HACP will not discriminate on the basis of: [FR Notice 02/03/12].

- Gender, Gender Identity, and Gender Expression
- Sexual Orientation
- Marital Status
- Ancestry
- Source of Income
- Genetic Information

California Supreme Court has held that protections under the Unruh Act are not necessarily restricted to these characteristics. The Unruh Act is meant to cover

**all arbitrary and intentional discrimination** by a business establishment on the bases of personal characteristics similar to those listed above.

The HACP will not use any of these factors to:

- Deny any family the opportunity to apply for housing, nor deny any qualified applicant the opportunity to participate in the housing choice voucher program.
- Provide housing that is different from that provided to others.
- Subject anyone to segregation or disparate treatment.
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program.
- Treat a person differently in determining eligibility or other requirements for admission.
- Steer an applicant or participant toward or away from a particular area based any of these factors.
- Deny anyone access to the same level of services.
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program.
- Discriminate in the provision of residential real estate transactions.
- Discriminate against someone because they are related to or associated with a member of a protected class.
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

### Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicants about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The HAP contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

### Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the PHA staff or an owner, the family should advise the

HACP. HUD requires the HACP to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the HACP is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Upon receipt of a housing discrimination complaint, the HACP is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made.
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted.
- Keep records of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20].

***HACP Policy:***

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the HACP either orally or in writing.

The HACP will attempt to remedy discrimination complaints made against the HACP and will conduct an investigation into all allegations of discrimination.

The HACP will provide a written notice to those alleged to have violated the rule. The HACP will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

Following the conclusion of the HACP's investigation, the HACP will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The HACP will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

Additionally, the fair housing agency serving the City of Pittsburg is:

**Pacific Community Services, Inc.**
329 Railroad Avenue, Pittsburg, CA 94565
Phone: (925) 439-1056 or
Email: http://www.pcsi.org/

## PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

### 2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

***HACP Policy:***

The HACP will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the HACP, by including the following language:

> "*If you or anyone in your family is a person with disabilities and you require a specific accommodation in order to fully utilize HACP's programs and services, please contact the HACP.*"

A specific name and phone number of designated HACP staff will be provided to process requests for accommodation.

The HACP will display posters and other housing information and signage in locations throughout the HACP's office in such a manner as to be easily readable from a wheelchair.

### 2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit.

Federal regulations stipulate that, requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

#### Types of Reasonable Accommodations

When needed, the PHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail.

- Conducting home visits.
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the HACP determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.
- Providing time extensions for locating a unit, when necessary, because of lack of availability of accessible units or special challenges of the family in seeking a unit.
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HACP staff.

## 2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the HACP treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the HACP's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

***HACP Policy:***

The HACP may encourage the family to make its request in writing using a HACP reasonable accommodation request form. However, the HACP will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted and regardless of whether the request is submitted on HACP's Reasonable Accommodation form.

The family must explain what type of accommodation is needed to provide the person with the disability full access to HACP's programs and services.

If the need for the accommodation is not readily apparent or known to the HACP, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

The request for a reasonable accommodation/reasonable modification need not use a specific written form and need not mention the Fair Housing Act, Section 504, or the ADA, or use the phrase "reasonable accommodation" or "reasonable modification." Requests for accommodation will be evaluated and decided upon by the Housing Manager and/or another staff member trained in and knowledgeable about fair housing and reasonable accommodations.

## 2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the PHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the PHA's programs and services.

If a person's disability is obvious or otherwise known to the HACP, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The HACP must request *only information that is necessary to evaluate the disability-related need for the accommodation*. The HACP will not inquire about the nature or extent of any disability.
- Medical records ***will not*** be accepted or retained in the participant file.
- In the event that the HACP does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the HACP Staff will dispose of it. In place of the information, the HACP will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

**2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION** [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

The HACP must approve a request for an accommodation if the following three

conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the HACP, or fundamentally alter the nature of the HACP's HCV program (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the HACP's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the HACP may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the HACP may verify the need for the requested accommodation.

***HACP Policy:***

After a request for an accommodation is presented, the HACP will respond in writing within 15 business days.

If the HACP denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the HACP's operations), the HACP will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the HACP believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the HACP will notify the family, in writing, of its determination within 15 business days from the date of the most recent discussion or communication with the family.

## 2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the HACP to ensure that persons with disabilities related to hearing and vision have reasonable access to the HACP 's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the HACP shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

***HACP Policy:***

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication may be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HACP staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

## 2-II.G. PHYSICAL ACCESSIBILITY

The HACP must comply with a variety of regulations pertaining to physical accessibility, including the following:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The HACP's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the HACP's responsibilities with regard to physical accessibility.

Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally funded housing programs.

- The HACP Needs Assessment Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of HACP facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the HACP will include a current list of available accessible units known to the HACP and may assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the

unit be restored to its original state at the family's expense when the family moves.

## 2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

The HACP's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the HACP's informal review process and their right to request an informal review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination must inform them of the HACP's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the HACP must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the HACP's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the HACP must make the accommodation.

# PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

## 2-III.A. OVERVIEW

Language for LEP can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register.*

The HACP will take affirmative steps to communicate with people who need services or information in a language other than English.

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the HACP will take into consideration the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the HCV program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the HACP and costs. Considering these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the HACP.

## 2-III.B. ORAL INTERPRETATION

The HACP will offer competent interpretation services free of charge, upon request, to the LEP person.

***HACP Policy:***

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the HACP. The interpreter may be a family member or friend.

The HACP will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP),

the HACP will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

## 2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

***HACP Policy:***

In order to comply with written-translation obligations, the HACP will take the following steps:

The HACP will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the HACP does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

## 2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the HACP shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the HACP determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's HCV program and services.

***HACP Policy***

If it is determined that the HACP serves very few LEP persons, and the HACP has very limited resources, the HACP will not develop a written LEP plan but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the HACP determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the

LEP plan.

## EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual; or
- Has a record of such impairment; or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes but is not limited to such diseases and conditions as: orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the multiple sclerosis) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under

federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

***The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.***

# Chapter 3

# ELIGIBILITY

## INTRODUCTION

The HACP is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the HACP to confirm eligibility and determine the level of the family's assistance.
To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the HACP.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the HACP's collection and use of family information as provided for in HACP-provided consent forms.
- The HACP must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the HACP.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and HACP definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the HACP to deny assistance.

# PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

## 3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This section provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

## 3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20]

The terms *family* and *household* have different meanings in the HCV program.

### Family

To be eligible for assistance, an applicant must qualify as a family. *Family,* as defined by HUD includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The HACP has the discretion to determine if any other group of persons qualifies as a family.

*Gender Identity* means actual or perceived gender characteristics.
*Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

> ***HACP Policy:***
> A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.
>
> Each family must identify the individuals to be included in the family at the time of application and must notify the HACP if the family's composition changes.

### Household

*Household* is a broader term that includes additional people who, with the HACP's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

## 3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

### Family Breakup [24 CFR 982.315; Notice PIH 2017-08]

Except under the following conditions, the HACP has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the HACP must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-IX. D of this plan.)
- In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator's HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the
- HUD–VASH voucher, which must be issued to another eligible family upon the voucher's turnover.
- If a court determines the disposition of property between members of the assisted family, the HACP is bound by the court's determination of which family members continue to receive assistance.

***HACP Policy:***

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision or an agreement among the original family members, the HACP will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, the HACP will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals (6) any original remaining members that can qualify as head of household.

**Remaining Member of a Tenant Family [24 CFR 5.403]**

The HUD definition of family includes the *remaining member of a tenant family,* which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

***HACP Policy:***

The disposition of a Housing Choice Voucher may be transferred to remaining family member(s) of a deceased participant under the following conditions:

- The remaining member named head of household must be 18 years of age or older and was previously listed on the HUD-50058.
- In the instance of an emancipated remaining family member, the emancipated remaining member shall have primary, legal custody of any remaining children (if applicable).
- A party, never having been included in the original family composition and who has gained primary, legal custody of the remaining children may become head of household, unless otherwise assisted or ineligible for the program.

## 3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

*Head of household* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

***HACP Policy:***

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

## 3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].
*Spouse* means the marriage partner of the head of household.

***HACP Policy:***

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohead.

***HACP Policy:***

Minors who are emancipated under state law may be designated as a cohead.

*Other adult* means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

### 3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a dependent allowance as described in Chapter 6.

### Joint Custody of Dependents

***HACP Policy:***

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family ***51%*** percent or more of the time (***183 days*** out of the year).

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HACP will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

### 3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]

A ***full-time student*** (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent allowance; and (2) the earned income of such an FTS is treated differently from the income of other family members.

### 3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12]

#### Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

#### Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

#### Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify

for the elderly family allowance as described in Chapter 6.

### 3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

#### Persons with Disabilities

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the HACP must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

#### Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent the HACP from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter, or from terminating assistance in accordance with the policies in Chapter 12, Section I.E.

### 3-I.J. GUESTS [24 CFR 5.100]

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near HACP premises [24CFR 5.100]

***HACP Policy:***

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near HACP premises [24CFR 5.100]

A guest can remain in the assisted unit no longer than ***15*** consecutive days or a total of ***45*** cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than ***51%*** percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last ***40*** consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Participants cannot violate the terms of their lease if the lease is more restrictive than the Housing Authority's guest policies.

## 3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

*Foster adults* are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609]. The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults who are living with an applicant or who have been approved by the HACP to live with a participant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].

***HACP Policy:***

A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

## 3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

**Definitions of Temporarily and Permanently Absent**

***HACP Policy:***

Generally, an individual who is or is expected to be absent from the assisted unit for ***180*** consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than ***180*** consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

**Absent Students**

***HACP Policy:***
When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the HACP indicating that the student has established a separate household, or the family declares that the student has established a separate household

**Absences Due to Placement in Foster Care [24 CFR 5.403]**
Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

***HACP Policy:***
If a child has been placed in foster care, the HACP will verify with the appropriate agency whether or when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

**Absent Head, Spouse, or Cohead**

***HACP Policy:***
An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

**Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]**
If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

***HACP Policy:***
The HACP will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the HACP will consider, any additional documentation or evidence.

**Return of Permanently Absent Family Members**

***HACP Policy:***
The family must request HACP approval for the return of any adult family members that the HACP previously determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

## 3-I.M. LIVE-IN AIDE

A *live-in aide* is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The HACP must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

The income of a live-in aide is not counted in the calculation of annual income for the family [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

***HACP Policy:***

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to HACP verification-at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

All live-in aides will be subject to HACP's non-income related screening.

The HACP ***will not*** approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)] if:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program,
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the HACP or to another HACP in connection with Section 8 or public housing assistance under the 1937 Act.

The HACP will notify the family of its decision in writing within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request.

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

**Income Limits**
HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

**Definitions of the Income Limits [24 CFR 5.603(b)]**

***Low-income family****:* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

***Very low-income family:*** A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

***Extremely low-income family****:* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Using Income Limits for Eligibility [24 CFR 982.201]**
Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]

  ***HACP Policy:***
  The HACP will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from the HACP's waiting list.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173.

- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101.

HUD permits the HACP to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the HACP 5 Year & Annual Plan and the County Consolidated plans for local governments within the HACP's jurisdiction.

***HACP Policy***
The HACP has not established any additional categories of eligible low-income families.

**Using Income Limits for Targeting [24 CFR 982.201]**
At least seventy percent (75%) of the families admitted to the HACP's program during a HACP fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the HACP demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.
Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

## 3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the HACP's LEP Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

**Declaration [24 CFR 5.508]**
HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens, the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

***U.S. Citizens and Nationals***

In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit the HACP to request additional documentation of their status, such as a passport.

> ***HACP Policy:***
> Family members who declare citizenship or national status will not be required to provide additional documentation unless the HACP receives information indicating that an individual's declaration may not be accurate.

***Eligible Noncitizens***

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with HACP efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance. Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

***Ineligible Noncitizens***

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The HACP is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

**Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

**Ineligible Families [24 CFR 5.514(d), (e), and (f)]**
A HACP may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the HACP that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the HACP in accordance with program requirements [24 CFR 5.512(a)].

***HACP Policy:***
The HACP will not provide assistance to a family before the verification of at least one family member is a U.S. citizen, national, or noncitizen with eligible immigration status.

When the HACP determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the HACP. The informal hearing with the HACP may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.

**Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]**
For new occupants joining the assisted family, the HACP must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the HACP must grant such an extension for no more than 30 days [24 CFR 5.508(h)]. Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

***HACP Policy:***
The HACP will verify the citizenship status of applicants at the time other eligibility factors are determined.

**3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10]**
The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and

the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.
*Note:* These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an Social Security Number (SSN), has previously disclosed an SSN that HUD or the Social Security Administration (SSA) determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.
The HACP must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

### 3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230; HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.
The HACP must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

### 3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16]

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with HACP Policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

**Definitions**

In determining whether and how the new eligibility restrictions apply to a student, the HACP will rely on the following definitions [FR Notice 4/10/06, FR Notice 9/21/16].

***Dependent Child***

In the context of the student eligibility restrictions*, dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

***Independent Student***

***HACP Policy:***

The HACP will consider a student "independent" from his or her parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.

To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

- The individual is at least 24 years old by December 31 of the award year for which aid is sought.
- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older.
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.
- The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes.
- The individual is a graduate or professional student.
- The individual is married.
- The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent).
- The individual has been verified during the school year in which the

- application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by: A local educational agency homeless liaison.

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director or a financial aid administrator.

- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
- The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.
- If the HACP determines that an individual meets the definition of a *vulnerable youth* such a determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance.

The HACP will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

### *Institution of Higher Education*

The HACP will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education* (see Exhibit 3-2).

### *Parents*

***HACP Policy:***

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.,).

### *Person with Disabilities*

The HACP will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

### *Veteran*

**HACP Policy**

A *veteran* is a person who served in the active military and who was discharged or released from such service under conditions other than dishonorable.

### *Vulnerable Youth*

***HACP Policy:***

A *vulnerable youth* is an individual who meets the U.S. Department of Education's definition of *independent student* in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older.
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by: A local educational agency homeless liaison.

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director or a financial aid administrator.

### Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the HACP must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the HACP must ensure that: (1) the student is individually eligible for the program, (2) either the student

is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

***HACP Policy:***

For any student who is subject to the 5.612 restrictions, the HACP will:

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program.
- Determine whether the student is independent from his/her parents in accordance with the definition of *independent student* in this section.
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program.

If the HACP determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the HACP will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

### *Determining Parental Income Eligibility*

***HACP Policy:***

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of *independent student* in this section, the HACP will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, the HACP will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the HACP will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the HACP will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the HACP will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The HACP will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, the HACP will use the income limits for the jurisdiction in which the parents live.

# PART III: DENIAL OF ASSISTANCE

## 3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. This section will discuss other situations and circumstances in which denial of assistance is mandatory for the HACP and those in which denial of assistance is optional for the HACP.

### Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

### Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the HACP's jurisdiction under portability. (See Chapter 10.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant is otherwise qualified for assistance (See section 3-III.G.)

## 3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

HUD requires the HACP to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, the HACP to admit an otherwise-eligible family if the household member has completed a HACP-approved drug rehabilitation program or the circumstances

which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

***HACP Policy:***
The HACP will admit an otherwise-eligible family who was evicted from federally assisted housing within the past 3 (Three) years for drug-related criminal activity, if the HACP is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HACP or the person who committed the crime, is no longer living in the household.

- The HACP makes the determination whether a household member is currently engaged in the use of illegal drugs.

***HACP Policy:***
*Currently engaged in* is defined as any use of illegal drugs during the previous six months.

- The HACP has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

***HACP Policy:***
In determining reasonable cause, the HACP will consider all credible evidence, including but not limited to, any record of convictions, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. The HACP will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

## 3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits, but does not require, the HACP to deny assistance for the reasons discussed in this section.

### Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the HACP to deny assistance if the HACP determines that any household member is currently engaged in or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

***HACP Policy:***

If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past five years, the family will be denied assistance.

***Drug-related criminal activity***, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

***Violent criminal activity***, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

**Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the HACP (including a HACP employee or a HACP contractor, subcontractor, or agent).**

* *Immediate vicinity* means within a three-block radius of the premises.

Evidence of such criminal activity includes, but is not limited to:

- Any ***conviction for drug-related or violent criminal activity*** within the past **5 years**.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

In making its decision to deny assistance, the HACP will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the HACP may, on a case-by-case basis, decide not to deny assistance.

**Previous Behavior in Assisted Housing [24 CFR 982.552(c)]**

HUD authorizes the HACP to deny assistance based on the family's previous behavior in assisted housing. Per the alternative requirements listed in the *Federal Register* notice dated December 29, 2014, PHAs are no longer permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [FR Notice 12/29/14].

***HACP Policy:***

The HACP **will** deny assistance to an applicant family if:

- The family does not provide information that the HACP or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the HACP.
- Any family member has been evicted from federally assisted housing in the last five years.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any HACP in connection with Section 8 or other public housing assistance under the 1937 Act unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any HACP for amounts the HACP paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with the HACP, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- **A family member has engaged in or threatened violent or abusive behavior toward *HACP* personnel. *Abusive or violent behavior towards HACP personnel* includes verbal as well as physical abuse or violence.** Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. ***Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.***

In making its decision to deny assistance, the HACP will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the HACP may, on a case-by-case basis, decide not to deny assistance.

## 3-III.D. SCREENING

### Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the HACP in complying with HUD requirements and HACP policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the HACP must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

- The HACP will perform a criminal background check through a third-party vendor or for every adult household member.
  If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the HACP will request a fingerprint card and will request information from the National Crime Information center (NCIC).

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

***HACP Policy:***
The HACP will use the third-party vendor or Dru Sjodin National Sex Offender database to screen applicants for admission. Additionally, PHAs must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

If the HACP proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the HACP must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

**Screening for Suitability as a Tenant [24 CFR 982.307]**
The HACP has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The HACP has the authority to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

***HACP Policy:***
**The HACP will not conduct additional screening to determine an applicant family's suitability for tenancy.**

The owner is responsible for screening and selection of the family to occupy the owner's unit. The HACP must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the HACP to provide prospective owners with the family's current and prior address (as shown in HACP records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the HACP to provide

owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

The HACP may not disclose to the owner any confidential information provided to the HACP by the family in response to a HACP request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation
[24 CFR 5.2007(a)(4)].

***HACP Policy:***
The HACP will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. The HACP will not provide any additional information to the owner, such as tenancy history or criminal history, etc.

## 3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

### Evidence [24 CFR 982.553(c)]

***HACP Policy:***
The HACP will use the concept of the preponderance of the evidence as the standard for making all admission decisions.
***Preponderance of the evidence*** is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

### Consideration of Circumstances [24 CFR 982.552(c)(2)]

HUD authorizes the HACP to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandatory (see Section 3-III.B).

***HACP Policy:***
The HACP will consider the following facts and circumstances prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault, or stalking.
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record of arrest(s) will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the HACP may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HACP may also consider:

- Any statements made by witnesses or the applicant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

*The HACP will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

**Removal of a Family Member's Name from the Application**
Should the HACP's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the HACP must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the HACP must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the HACP may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

***HACP Policy:***
As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon HACP request.

**Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**
If the family includes a person with disabilities, the HACP's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

***HACP Policy*:**
If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the HACP will determine whether the behavior is related to the stated disability. If so, upon the family's request, the HACP will determine whether admitting the family as a reasonable accommodation is appropriate. The HACP will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

**3-III.F. NOTICE OF ELIGIBILITY OR DENIAL**
If the family is eligible for assistance, the HACP will notify the family in writing and schedule a tenant briefing, as discussed in Chapter 5.

If the HACP determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

***HACP Policy:***
The family will be notified of a decision to deny assistance in writing within **10 business days** of the determination.

If a HACP uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the HACP can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The HACP must give the family an opportunity to dispute the accuracy and relevance of that record in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

***HACP Policy:***
If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible, the HACP will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the HACP to dispute the information within that ***10-business-day*** period, the HACP will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of

the official denial letter will still be given the opportunity to do so as part of the informal review process.

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault or stalking are contained in Section 3-III.G.

## 3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.

Definitions of key terms used in VAWA are provided in section 16-IX of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

### Notification

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD–5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

***HACP Policy:***

The HACP acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the HACP's policies.

While the HACP is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform the HACP that their status as a victim is directly related to the grounds for the denial. The HACP will request that the applicant provide enough information to the HACP to allow the HACP to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of his or her status as a victim.

The HACP will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the form HUD-5382. The HACP will request in writing that an applicant wishing to claim protection under VAWA notify the HACP within 14 business days of making the request.

## Documentation

### *Victim Documentation [24 CFR 5.2007]*

***HACP Policy:***
If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, the HACP will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

### *Perpetrator Documentation*

***HACP Policy:***
If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- A signed statement: (1) requesting that the perpetrator be removed from the application; and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit.

- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

## EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

**Person with Disabilities [24 CFR 5.403]**
The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:
-

  **(A) In General**

  The term "developmental disability" means a severe, chronic disability of an individual that:
  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments,
  (ii) is manifested before the individual attains age 22,
  (iii) is likely to continue indefinitely,
  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  **(B) Infants and Young Children**

  An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long continued and indefinite duration; substantially impedes his or her ability to live independently and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.
- People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiological agent for AIDS are not excluded from this definition.
- A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

**Individual with Handicaps [24 CFR 8.3]**

*Individual with handicaps* means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:
   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
(2) *Major life activities* mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
(4) *Is regarded as having an impairment* means:
   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a

limitation.

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

## EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. 1001 and 1002]

**Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]**

*Institution of Higher Education* shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

*Definition of ''Institution of Higher Education'' From 20 U.S.C. 1001*

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ''institution of higher education'' means an educational institution in any state that
   (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate,
   (2) Is legally authorized within such state to provide a program of education beyond secondary education,
   (3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree,
   (4) Is a public or other nonprofit institution; and
   (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ''institution of higher education'' also includes—
   (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
   (2) A public or nonprofit private educational institution in any state that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular student persons who are beyond the age of compulsory school attendance in the state in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

*Definition of ‘‘Institution of Higher Education’’ From 20 U.S.C. 1002*

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term ‘‘institution of higher education’’ for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) A proprietary institution of higher education (as defined in subsection (b) of this section),
(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and
(C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States
(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States—
(I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and
(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a state as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—
(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and
(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.
(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(C) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title,
(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher

education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an Associate Degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an Associate degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education
(1) Principal criteria. For the purpose of this section, the term ‘‘proprietary institution of higher education’’ means a school that—
(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation,
(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title,
(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title,
(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter,
(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.
(2) Additional institutions. The term ‘‘proprietary institution of higher education’’ also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular student persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
(c) Postsecondary vocational institution.
(1) Principal criteria: For the purpose of this section, the term ‘‘postsecondary vocational institution’’ means a school that—
(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation,
(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
(C) Has been in existence for at least 2 years.
(2) Additional institutions. The term ‘‘postsecondary vocational institution’’ also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular student persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

# Chapter 4

# APPLICATIONS, WAITING LIST AND TENANT SELECTION

## INTRODUCTION

When a family wishes to receive assistance under the HCV program, the family must submit an application that provides the HACP with the information needed to determine the family's eligibility. HUD requires the HACP to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the HACP must select families from the waiting list in accordance with HUD requirements and HACP policies as stated in the administrative plan and the annual plan.

The HACP is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the HACP that justify their selection. Examples of these are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the HACP affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the HACP will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and HACP policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This section discusses how applicants can obtain and submit applications and provides an overview of the application process because demand for housing far exceeds available funding, HACP will only provide HCV assistance to eligible families on its wait list, with the exception of families transferring into the program through portability. The HACP will utilize a lottery to place applicants on the wait list. A lottery ensures that all applicants who express a need for assistance are given an equal opportunity to apply for and receive a voucher. d.

Part II: Managing the Waiting List. This section presents the policies that govern how the HACP's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the HACP will use to keep the waiting list current.

Part III: Selection for HCV Program. This section describes the policies that guide the HACP in selecting families for HCV program as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the HACP has the information needed to make a final eligibility determination.

# PART I: THE APPLICATION PROCESS

## 4-I.A. OVERVIEW

This section describes the HACP policies for making applications available, accepting applications, making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This section also describes the HACP's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people LEP.

## 4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the HACP to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the HACP. The HACP must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the HACP's application.

***HACP Policy***

Because demand for housing far exceeds available funding, the HACP will only provide HCV assistance to eligible families on its wait list, with the exception of families transferring into the program through portability. All persons who wish to apply for the HACP's programs must submit a pre- application via on-line, during the time the HACP is accepting applications. All applicants on an existing wait list will be served or withdraw prior to families being invited to apply to a new wait list.

The HACP will utilize a lottery to place applicants on the wait list. A lottery ensures that all applicants who express a need for assistance are given an equal opportunity to apply for and receive a voucher. Lottery applicants will only be required to provide information needed to make an initial assessment of the family's eligibility and to determine the family's placement on the waiting list. This is known as the "pre-application." This information will not be verified for waiting list placement.

The application process will involve two phases. The first phase is the pre-application, also sometimes referred to as the initial application. Completion of the on-line pre-application allows entry into the random lottery drawing.

Once the applications are randomly selected via lottery, they are placed on the waiting list according to the preferences indicated on the application. Applications not drawn in the lottery will not be placed on the waiting list.

The second phase is the "pre-determination of eligibility" (referred to as the full application). The full application takes place when the family reaches the top of the waiting list. At this time, the HACP will ensure that verification of all eligibility factors is current in order to determine the family's eligibility prior to the issuance of a voucher.

The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list. This information will be verified. If it is determined that the family intentionally misrepresented the facts on the pre-application, the family will either be placed back on the wait list (ranked by their current preferences) or will be denied assistance. If the family is unable to verify their declared preferences, the family will be denied those preferences and will be placed back on the waiting list ranked by their verified preferences.

The full application is signed at the eligibility appointment by the applicant unless a disability prevents the applicant from doing so. In the case of a disability that prevents the applicant from signing the full application, HACP representative may sign as a witness. Applicants will then be interviewed by HACP staff to review the information on the full application form. Verification of the disability, as defined by the Americans with Disabilities Act, will be requested at this time. The full application process will include discussion about reasonable accommodation necessity.

### Special Admission (Non-Waiting List)

If a family is displaced due to acquisition by the City of Pittsburg, the HACP will determine eligibility for voucher issuance by the following criteria:

- The family must be income eligible and be a citizen or a non-citizen who has eligible immigration status in accordance with 24 CFR Part 5.
- If funding is available.
- No family members may have engaged in drug related activity or violent criminal activity within the 3 years from admission date.
- No family member can be a registered sex offender.

## 4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

### Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The HACP must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard HACP application process. This could include people with disabilities, certain elderly individuals, as well as persons with LEP. The HACP must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the HACP must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the policies related to providing reasonable accommodations for people with disabilities.

### Limited English Proficiency

PHAs are required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the policies related to ensuring access to people with limited English proficiency.

## 4-I.D. PLACEMENT ON THE WAITING LIST

The HACP must review each complete application received and make a preliminary assessment of the family's eligibility. The HACP must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the HACP must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

### Ineligible for Placement on the Waiting List

***HACP Policy***

The HACP will conduct a lottery of all families and individuals who have turned in applications during the application period. Only applicants selected in the lottery will be placed on the wait list. Those not selected will receive a written notice informing them that they were not selected for the wait list.

If the HACP can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the HACP will send written notification of the ineligibility determination within 10 business days of receiving a complete application. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

### Eligible for Placement on the Waiting List

***HACP Policy***

The HACP will send written notification of the preliminary eligibility determination within 10 business days of receiving a complete application.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list for pre-determination of eligibility.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by the HACP.

# PART II: MANAGING THE WAITING LIST

## 4-II.A. OVERVIEW

The HACP must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how a HACP may structure its waiting list and how families must be treated if they apply for assistance from a HACP that administers more than one assisted housing program.

## 4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

The HACP's HCV waiting list must be organized in such a manner to allow the HACP to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

- Name and social security number of the head of household,
- Family unit size and number of family members,
- Amount of annual income,
- Any accessibility needs,
- Any translation/interpretation needs,
- Wait list opening date,
- Qualification for any local preference,
- Racial or ethnic designation of the head of household,
- Postal mailing address,
- Date and time of application,

HUD requires the HACP to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

***HACP Policy***

The HACP will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the HACP operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that HACP s maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

***HACP Policy***

The HACP will not merge the HCV waiting list with the waiting list for any other program the HACP operates.

## 4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

### Closing the Waiting List

A HACP is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the HACP may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

***HACP Policy***

Due to the overwhelming interest in housing assistance when the wait list is open, the HACP will accept applications for no more than one week at a time. Where the HACP has particular preferences or funding criteria that require a specific category of family, the HACP may elect to continue to accept applications from these applicants while closing the waiting list to others. The HACP will announce the closing of the waiting list by closing the electronic portal public notice through the City of Pittsburg Website. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

In the future, HACP will close the waiting list at the end of the advertised open period. After 24 months, the wait list will be purged of all remaining applicants and a denial letter sent to them. A new wait list will be created thereafter for the next 24 months. Where HACP as particular preferences or funding criteria that require a specific category of family, HACP may elect to continue to accept applications from these applicants while closing the waiting list to others.

### Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until the HACP publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

***HACP Policy:***

The HACP will announce the reopening of the waiting list at least **10 business days** prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The HACP will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- Public Notice – East County Times

- City of Pittsburg Website
- City's Facebook page

## 4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

The HACP must conduct outreach as necessary to ensure that the HACP has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the HACP to admit a specified percentage of extremely low-income families to the program (see Chapter 4, Part III), the HACP may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low-income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

***HACP Policy***

The HACP will monitor the characteristics of the population being served and the characteristics of the population as a whole in the HACP's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

## 4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

***HACP Policy***

While the family is on the waiting list, the family must immediately inform the HACP of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted through the HACP Applicant Portal or in writing. Mail sent from the HACP to an applicant **will not** be forwarded. Mail sent from the HACP to an applicant is

considered received unless returned by the post office as undeliverable. Mail returned to the HACP will result in the removal of an application from the waiting list unless it is the result of postal service error.

Documentation of a postal service error is the responsibility of the applicant and must include a letter from the postmaster explaining the error which caused the applicant's mail to be returned to the HACP. Documentation must be received within 15 business days from when the application was removed from the waiting list. Applicants providing acceptable documentation will be returned to the waiting list with their original application position

## 4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires the HACP to establish policies to use when removing applicant names from the waiting list. Since the wait list will only be active for 24 months, it is unlikely that it will need to be updated. However, if the HACP must update the wait list for any reason, the following guidelines will be followed:

### Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a HACP request for information or updates, and the HACP determines that the family did not respond because of the family member's disability, the HACP must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

***HACP Policy***

The waiting list may be updated as needed if funding is available to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the HACP will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the HACP has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the HACP not later than 30 calendar days from the date of the HACP letter.

If the family fails to respond within 30 calendar days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 10 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the HACP may reinstate the family if it is determined that the lack of response was due to HACP error, or to circumstances beyond the family's control.

## Removal from the Waiting List

***HACP Policy***

HACP will remove applicants from the waiting list if they have requested that their name be removed in writing, in person or by email. In such cases no informal hearing is required.

If at any time, the HACP determines an applicant family on the waiting list is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list. A notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the HACP's decision (see Chapter 16) [24 CFR 982.201(f)].

The HCV wait list will terminate after 24 months from the date it notified applicants of their initial placement on the wait list. A new HCV wait list will be created thereafter.

Families removed from the waitlist due to failure to respond to updates or an invitation for certification will be considered for reinstatement to the waiting list for up to 12 months from the date they were removed from the waiting list or the expiration of the waiting list, whichever is earlier.

# PART III: SELECTION FOR HCV ASSISTANCE

## 4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this section.

The order in which families are selected from the waiting list depends on the selection method chosen by the HACP and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

The HACP must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the HACP's selection policies [24 CFR 982.204(b) and 982.207(e)].

## 4-III.B. SELECTION AND HCV FUNDING SOURCES

### Special Admissions [24 CFR 982.203]

HUD may award funding for specifically named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the HACP may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The HACP must maintain records showing that such families were admitted with special program funding.

HACP administers the following Special Purpose funding:

- Veterans Administration Supportive Housing Program (VASH)

Special (non-waitlist) Admissions include the following:

- In-Place households for newly authorized PBV projects
- Direct Referrals from:
  - VASH or affiliated Veterans Support Agency and
  - Coordinated Entry System (CES) for an authorized PBV Project

### Targeted Funding [24 CFR 982.204(e)]

HUD may award a HACP funding for a specified category of families on the waiting list. The HACP must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the HACP may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

***HACP Policy***

The HACP currently does not administer any type of targeted funding.

**Regular HCV Funding**

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

**4-III.C. SELECTION METHOD**

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the HACP will use [24 CFR 982.202(d)].

**Local Preferences [24 CFR 982.207; HCV p. 4-16]**

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the HACP to establish other local preferences, at its discretion. Any local preferences established must be consistent with the HACP plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

***HACP Policy***

The HACP will use the following local preferences:

1. Pittsburg residents.
    - Any household family member who lives, works, or has been hired to work, or attending school in Pittsburg.
2. Veterans or surviving spouses of veterans.
3. The HACP will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.

*The HACP will first assist families that have been terminated from the HCV program due to insufficient funding.

Local preferences in addition to date and time of application are given priority when determining an applicant's order of a placement on the waiting lists. The following chart represents the order of preference given to applicants on the waiting lists:

| CODE | RANK - DESCRIPTION | PREFERENCE POINTS |
|---|---|---|
| 1 | TERMINATED CLIENTS – Due to Insufficient Funding | 1,500,000 |
| 2 | VETERAN / RESIDENT | 1,000,000 |
| 3 | NON-RESIDENT / RESIDENT | 200,000 |
| 4 | VETERAN / NON-RESIDENT | 30,000 |
| 5 | NON-VETERAN /NON-RESIDENT | 4,000 |

## Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the HACP's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher. To ensure this requirement is met, a HACP may skip non-ELI families on the waiting list in order to select an ELI family.

Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

***HACP Policy***

The HACP will monitor progress in meeting the income targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

If the family's verified annual income, at final eligibility determination, does not fall under the Extremely Low-Income Limit and the family was selected for income targeting purposes, ahead of families with a higher preference, the family will be returned to the waiting list based on their actual income level and preference.

## Order of Selection

The HACP system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery) [24 CFR 982.207(c)]. If a HACP does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

***HACP Policy***

All applications received within the application window will be accepted and entered into the applicant pool. The applicant pool will be screened for duplicate applications. Only one application will be allowed per Head of Household. Applicants will be randomly selected for the wait list by computer-generated lottery. All applicants in the pool will be randomly assigned a lottery number.

Families will be selected for the waiting list based on preference points and lottery number from the lowest to the highest number until HACP has reached number 1,200. If HACP issues all 1,200 vouchers over the next 24 months, the waiting list will be re-opened. If not, after 24 months from the date of notification to families of their placement on the wait list, the remaining applicants not selected will be denied and a new application process will be implemented. HACP plans to open the HCV wait list every two years.

No other applicant may be placed on the list. All other applicants will have to reapply in the future. Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the HACP's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the HACP. Documentation will be maintained by the HACP as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the HACP does not have to ask higher placed families each time targeted selections are made.

## 4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the HACP must notify the family [24 CFR 982.554(a)].

***HACP Policy***

The HACP will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview.
- Who is required to attend the application verification interview?
- All documents that must be provided at the interview, including information about what constitutes acceptable documentation.

If a notification letter is returned to the HACP with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

## 4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the HACP obtain the information and documentation needed to make an eligibility determination through a face-to-face interview with a HACP representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the HACP determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the HACP [Notice PIH 2012-10].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

***HACP Policy***

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household that are not present at the interview will not begin until signed release forms are returned to the HACP.

The head of household or spouse/cohead must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity.) If the family representative does not provide the required documentation at the time of the interview, he or she will be required to provide it within 10 business days.

Pending disclosure and documentation of social security numbers, the HACP will allow the family to retain its place on the waiting list for ***90 days from the date of the request***. If all household members have not disclosed their SSNs at the next time the HACP is issuing vouchers, the HACP will issue a voucher to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the HACP will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within **10 business days** of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For LEP applicants, the HACP will provide translation services in accordance with the HACP's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the HACP in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the HACP will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without HACP approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

## 4-III.F. COMPLETING THE APPLICATION PROCESS

The P must verify all information provided by the family (see Chapter 7). Based on verified information, the HACP must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

***HACP Policy***

If the HACP determines that the family is ineligible, the HACP will send written notification of the ineligibility determination within **10 business days** of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g., targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The HACP will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

If the HACP determines that the family is eligible to receive assistance, the HACP will invite the family to attend a briefing in accordance with the policies in Chapter 5.

# Chapter 5

# BRIEFINGS AND VOUCHER ISSUANCE

## INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the HCV program, the HACP must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing the HUD-required documents and other information the family needs to know in order to lease a unit under the program. Once the family is fully informed of the program's requirements, the HACP issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the HACP's subsidy standards, as well as the issue and expiration date of the voucher. The voucher is the document that authorizes the family to begin its search for a unit and limits the amount of time the family has to successfully locate an acceptable unit.

This chapter describes HUD regulations and HACP policies related to these topics in two parts:

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

Part II: Subsidy Standards and Voucher Issuance. This part discusses the HACP's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

## PART I: BRIEFINGS AND FAMILY OBLIGATIONS

### 5-I.A. OVERVIEW

HUD regulations require the HACP to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the HACP's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

### 5-I.B. BRIEFING [24 CFR 982.301]

The HACP must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the HACP must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

***HACP Policy***

Briefings may be conducted in group meetings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the HACP may approve another adult family member to attend the briefing.

Families that attend group briefings and still need individual assistance will be referred to an appropriate HACP staff person.

Briefings will be conducted in English. For LEP applicants, the HACP will provide translation services in accordance with the HACP's LEP plan (See Chapter 2).

**Notification and Attendance**

***HACP Policy***

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the applicant will be denied, and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will be scheduled for another briefing automatically. The HACP will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior HACP approval, will be denied assistance (see Chapter 3).

**Oral Briefing [24 CFR 982.301(a)]**

Each briefing must provide information on the following subjects:

- How the HCV program works,
- Family and owner responsibilities,
- Where the family can lease a unit, including renting a unit inside or outside the HACP's jurisdiction,
- An explanation of how portability works. The HACP may not discourage the family from choosing to live anywhere in the HACP jurisdiction or outside the HACP jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order,
- The HACP must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance,

- The advantages of areas that do not have a high concentration of low-income families; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

**Briefing Packet [24 CFR 982.301(b)]**

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, voucher suspensions, and the HACP's policies on any extensions of the term. If the HACP allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the HACP determines the payment standard for a family, how the HACP determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the HACP determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.
- A statement of the HACP policy on providing information about families to prospective owners.
- The HACP subsidy standards including when and how exceptions are made.
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords known to the HACP who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the HACP that may assist the family in locating a unit. HACPs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the HACP.

- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the HACP may terminate assistance for a participant family because of family action or failure to act.
- HACP informal hearing procedures including when the HACP is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.

If the HACP is located in a metropolitan area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)]:

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services
- An explanation of how portability works, including a list of portability contact persons for neighboring HACPs with names, addresses, and telephone numbers

**Additional Items to Be Included in the Briefing Packet**

In addition to items required by the regulations, HACPs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2010-19].

***HACP Policy***

The HACP will provide the following additional materials in the briefing packet:

- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*
- Information on how to fill out and file a housing discrimination complaint form
- The form HUD-5380 domestic violence certification form and the form HUD-5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking
- “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

## 5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the HCV regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The HACP must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

### Time Frames for Reporting Changes Required By Family Obligations

***HACP Policy***

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the HACP of a change, notifying the HACP of the request or change within 10 business days is considered prompt notice.

When a family is required to provide notice to the HACP, the notice must be in writing.

### Family Obligations [24 CFR 982.551]

The family obligations of the voucher are listed as follows:

- The family must supply any information that the HACP or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the HACP or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any HQS breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

  ***HACP Policy***

  The family must not damage the unit or premises (other than ordinary wear and tear) or permit any guest to damage the unit or premises. Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The family must allow the HACP to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

- The family must not commit any serious or repeated violation of the lease.

  ***HACP Policy***

  The HACP will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

  *Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify the HACP and the owner before moving out of the unit or terminating the lease.

  ***HACP Policy***

  The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the HACP at the same time the owner is notified.

- The family must promptly give the HACP a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the HACP. The family must promptly notify the HACP in writing of the birth, adoption, or court-awarded custody of a child. The family must request HACP approval to add any other family member as an occupant of the unit.

  ***HACP Policy***

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The HACP will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the HACP in writing if any family member no longer lives in the unit.
- If the HACP has given approval, a foster child or a live-in aide may reside in the unit. The HACP has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HACP consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (sections I.K and I.M), and Chapter 11 (section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

***HACP Policy***

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the HACP to verify that the family living in the unit or information related to family absent from the unit.
- The family must promptly notify the HACP when the family is absent from the unit.

***HACP Policy***

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the HACP at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the
- premises. See Chapter 12 for HUD and HACP policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and HACP policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACP has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

# PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

## 5-II.A. OVERVIEW

The HACP must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular HACP family should receive, and the policies that govern making exceptions to those standards. The HACP must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of the voucher term.

## 5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

For each family, the HACP determines the appropriate number of bedrooms under the HACP subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the HACP determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the HACP to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the HACP subsidy standards.

***HACP Policy:***

The HACP will assign one bedroom to the Head of Household and, if present, their spouse or companion. One additional bedroom will be assigned for every two other persons in the household. The living room is considered an additional sleeping room but is not used to determine the voucher size for the family. The Living Room is considered an additional sleeping room when determining whether an additional adult can be added to the household. Foster children in the household will be included in determining unit size. Single person families will be

allocated one bedroom (as opposed to a studio). See section 11.II.B below. Each two persons within the household, except in the following circumstances:

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

The HACP will reference the following chart in determining the appropriate voucher size for a family:

| Voucher Size | Persons in Household (Minimum – Maximum) |
|---|---|
| 1 Bedroom | 1-4 |
| 2 Bedrooms | 2-6 |
| 3 Bedrooms | 3-8 |
| 4 Bedrooms | 4-10 |
| 5 Bedrooms | 6-12 |

## 5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the HACP may grant an exception to its established subsidy standards if the HACP determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)]. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

***HACP Policy***

The HACP will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or

health professional), unless the disability and the disability–related request for accommodation is readily apparent or otherwise known. The family's continued

need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

The HACP will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

## 5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the HACP issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the HACP has determined the family to be eligible for the program, and that the HACP expects to have money available to subsidize the family if the family finds an approvable unit. However, the HACP does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the HACP's HCV program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after the HACP has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

***HACP Policy***

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The HACP should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the HACP must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

***HACP Policy***

Prior to issuing any vouchers, the HACP will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

If the HACP determines that there is insufficient funding after a voucher has been issued, the HACP may rescind the voucher and place the affected family back on the waiting list.

## 5-II.E. VOUCHER TERM AND EXTENSIONS

### Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

***HACP Policy***

The initial voucher term will be **120** calendar days. For families exercising their right of Portability, the Voucher term will be the lesser of the remaining full term of the search period or 120 calendar days. This date may vary based on when the last/current tenancy was terminated

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the HACP grants an extension.

### Extensions of Voucher Term [24 CFR 982.303(b)]

The HACP has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the HACP can approve. Discretionary policies related to extension and expiration of search time must be described in the HACP's administrative plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the HACP's decision to approve or deny an extension. The HACP's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

***HACP Policy***

The HACP may approve one 30-day extension upon written request from the family.

The HACP will approve additional extensions only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by the HACP. Following is a list of extenuating circumstances that the HACP may consider in making its decision.

The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment

Whether the family has already submitted requests for tenancy approval that were not approved by the HACP

Whether family size or other special circumstances make it difficult to find a suitable unit

Any request for an additional extension must include the reason(s) an additional extension is necessary. The HACP may require the family to provide documentation to support the request or obtain verification from a qualified third party.

If HACP determines that the rental market in its jurisdiction is prohibiting voucher holders from finding units, HACP may decide to allow extensions beyond the 120 day period. The decision to allow additional extensions beyond 120 days must be approved by the Housing Manager. The family must demonstrate that its due diligence in trying to locate a unit was met by providing HACP a listing of all units looked at and all contacts with landlords made. HACP must also be able to document that the market has higher rents than voucher holders can afford or there are a shortage of rental units available.

All requests for extensions to the voucher term must be made in writing and submitted to the HACP prior to the expiration date of the voucher (or extended term of the voucher).

The HACP will decide whether to approve or deny an extension request within **10 business days** of the date the request is received and will immediately provide the family written notice of its decision.

### Suspensions of Voucher Term [24 CFR 982.303(c)]

The HACP must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for HACP approval of the tenancy until the date the HACP notifies the family in writing whether the request has been approved or denied.

### Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the HACP may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

***HACP Policy***

**Expiration of Applicant Vouchers:**

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), HACP will require the family to reapply for assistance the next time the waiting list is open. If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by HACP (after the voucher term has expired) the family's voucher will be "tolled" and the number of processing days shall be added to the voucher. The tenant shall be given another RTA to search for another unit for only the days remaining on the voucher after it is tolled. This is not an extension but merely holding the tenant harmless from any processing time. Within 10 business days after the expiration of the voucher term or any extension, HACP will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

**Expiration of Participant Vouchers:**

If a participating family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA) the family may remain in its current unit with continued voucher assistance if the owner agrees and the PHA approves. If the family has moved out of the unit and the voucher term or extension expires before the family has submitted an RTA then the family will lose its assistance and will be required to reapply for assistance the next time the waiting list is open.

If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by HACP (after the voucher term has expired),the family's voucher will be "tolled" and the number of processing days shall be added to the voucher. The tenant shall be given another RTA to search for another unit for only the days remaining on the voucher after it is tolled. This is not an extension but merely holding the tenant harmless from any processing time. Within 10 business days after the expiration of the voucher term or any extension, HACP will notify the family in writing that the voucher term has expired and if the family is not currently living in an HCV assisted unit, that the family must reapply when the wait list is open in order to be placed on the waiting list

# Chapter 6

# INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

## INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the HACP's subsidy. The HACP will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and HACP policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and HACP policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require the HACP to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and HACP policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and HACP Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining HACP subsidy and required family payment.
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## PART I: ANNUAL INCOME

### 6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

> 5.609 Annual income.
> (a) Annual income means all amounts, monetary or not, which:
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
> (3) Which are not specifically excluded in paragraph [5.609(c)].
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)

- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

| Summary of Income Included and Excluded by Person | |
|---|---|
| Live-in aides | Income from all sources is excluded [24 CFR 5.609(c)(5)]. |
| Foster child or foster adult | Income from all sources is excluded [24 CFR 5.609(c)(2)]. |
| Head, spouse, or cohead<br>Other adult family members | All sources of income not specifically excluded by the regulations are included. |
| Children under 18 years of age | Employment income is excluded [24 CFR 5.609(c)(1)].<br>All other sources of income, except those specifically excluded by the regulations, are included. |
| Full-time students 18 years of age or older (not head, spouse, or cohead) | Employment income above $480/year is excluded [24 CFR 5.609(c)(11)].<br>All other sources of income, except those specifically excluded by the regulations, are included. |

### Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

***HACP Policy***

Generally, an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected

to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

**Absent Students**

***HACP Policy***

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the HACP indicating that the student has established their own separate household or the family declares that the student has established a separate household.

**Absences Due to Placement in Foster Care**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

***HACP Policy***

If a child has been placed in foster care, the HACP will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

**Absent Head, Spouse, or Cohead**

***HACP Policy***

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member. The employment assignment must be of a temporary nature such as military service or a construction assignment out of the area. Per HUD regulations, if the head of household is the only member of the family, then the head may not be absent more than 180 days without the HAP contract terminating.

**Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

***HACP Policy***

The HACP will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

**Joint Custody of Dependents**

***HACP Policy***

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time (183 cumulative days during the calendar year).

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HACP will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

**Caretakers for a Child**

***HACP Policy***

The approval of a caretaker is at the owner and HACP's discretion and subject to the owner and HACP's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the HACP will take the following actions:

(1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HACP will extend the caretaker's status as an eligible visitor.
(3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
(4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.
(5) All caretakers will be subject to the Authority's non-income background checks. HACP will not approve a particular person as a caretaker, and may withdraw such approval if:

• The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program,

• The person commits drug-related criminal activity or violent criminal activity; or
• The person currently owes rent or other amounts to HACP or to another Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act.
(6) In the event of a family breakup, HACCC may use its discretion to determine which family members will continue to receive assistance according to Chapter 3.I.C. [24 CFR 982.315]

## 6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

### Basis of Annual Income Projection

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].
HUD allows PHAs to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

***HACP Policy***
When EIV is obtained and the family does not dispute the EIV employer data, the HACP will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the HACP will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

If additional pay stubs are submitted, HACP may utilize up to four consecutive paystubs provided to calculate anticipated income for the next annual recertification. Where a participant or applicant has recently commenced

employment, HACP will utilize however many pay stubs have been received to date and attempt to supplement them with written verification from the employer. Where an employer fails to respond to a request for verification of wages, HACP may utilize The Work Number to verify wages. The Work Number shall only be utilized when there is a lack of pay stubs and/or employment verification available to HACP.

The HACP will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

If EIV or other UIV data is not available,
If the family disputes the accuracy of the EIV employer data, and/or
If the HACP determines additional information is needed.

In such cases, the HACP will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the HACP annualized projected income.

When the HACP cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the HACP will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.
Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the HACP to show why the historic pattern does not represent the family's anticipated income.

***Known Changes in Income***
If the HACP verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case the HACP would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the HACP will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the HACP's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

**Projecting Income**
In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

## 6-I.D. EARNED INCOME

### Types of Earned Income Included in Annual Income

**Wages and Related Compensation**
The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

***HACP Policy***
For persons who regularly receive bonuses or commissions, the HACP will verify the total and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the HACP will use the prior year amounts. In either case the family may provide, and the HACP will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the HACP will count only the amount estimated by the employer. The file will be documented appropriately.

**Some Types of Military Pay**
All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

### Types of Earned Income Not Counted in Annual Income

**Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]**

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than ***180 days*** [Notice PIH 2009-19].

***HACP Policy***
Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

**Children's Earnings**
Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of foster children.)

**Certain Earned Income of Full-Time Students**
Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

**Income of a Live-in Aide**
Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

**Income Earned under Certain Federal Programs**
Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

**Resident Service Stipend**
Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

**State and Local Employment Training Programs**
Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

**HACP *Policy***

The HACP defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

The HACP defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the HACP will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the HACP's interim reporting requirements.

**HUD-Funded Training Programs**

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

***HACP Policy***

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

**Earned Income Tax Credit**

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

**Earned Income Disallowance**

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

## 6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

### Eligibility

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

### Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID. While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Participants qualifying prior to May 9, 2016, will have the disallowance calculated under the "Original Calculation Method" described below which requires a maximum lifetime disallowance period of up to 48 consecutive months. Participants qualifying on or after May 9, 2016, will be subject to the "Revised Calculation Method" Which shortens the lifetime disallowance period to 24 consecutive months.

Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

**Original Calculation Method**
**Initial 12-Month Exclusion**
During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

***HACP Policy***
The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

**Second 12-Month Exclusion and Phase-In**
During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

**Lifetime Limitation**
The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

***HACP Policy***
During the 48-month eligibility period, the HACP will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

**Revised Calculation Method**
**Initial 12-Month Exclusion**
During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

***HACP Policy***
The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

**Second 12-Month Exclusion**
During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

***HACP Policy***
During the second 12-month exclusion period, the HACP will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

**Lifetime Limitation**
The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

**6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]**
Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Net income is "gross income less business expense" [HCV GB, p. 5-19].

***HACP Policy***
To determine business expenses that may be deducted from gross income, the HACP will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

**Business Expansion**
HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

***HACP Policy***
*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

**Capital Indebtedness**
HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

***HACP Policy***
*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the HACP will allow as a business expense interest, but not principal, paid on capital indebtedness.

**Negative Business Income**
If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

**Withdrawal of Cash or Assets from a Business**
HUD regulations require the HACP to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

***HACP Policy***
Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the HACP will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

**Co-owned Businesses**
***HACP Policy***
If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

**6-I.G. ASSETS [24 CFR 5.609(b)(3); 24 CFR 5.603(b)]**
**Overview**
There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined

- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.
Optional policies for family self-certification of assets are found in Chapter 7.

## General Policies

### Income from Assets

The HACP generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the HACP to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the HACP believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives a rental income but the property is currently vacant, the HACP can take into consideration past rental income along with the prospects of obtaining a new tenant.

***HACP Policy***

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the HACP to show why the asset income determination does not represent the family's anticipated asset income.

### Valuing Assets

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

***HACP Policy***

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

### Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an

asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

**Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]**
When net family assets are $5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

***HACP Policy***
The HACP will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The HACP will review the passbook rate annually, in December of each year. The rate will not be adjusted unless the current HACP rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

Changes to the passbook rate will take effect on February 1st following the December review.

**Determining Actual Anticipated Income from Assets**
It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

**Withdrawal of Cash or Liquidation of Investments**
Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement

investment plan.

**Jointly Owned Assets**
The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

***HACP Policy***
If an asset is owned by more than one person and any family member has unrestricted access to the asset, the HACP will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the HACP will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the HACP will prorate the asset evenly among all owners.

**Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]**
HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

**Minimum Threshold**
The *HVC Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

***HACP Policy***
The HACP will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

**Separation or Divorce**
The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement

and the applicant or tenant receives important consideration not measurable in dollar terms.

***HACP Policy***

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

**Foreclosure or Bankruptcy**

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

**Family Declaration**

***HACP Policy***

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The HACP may verify the value of the assets disposed if other information available to the HACP does not appear to agree with the information reported by the family.

**Types of Assets**

**Checking and Savings Accounts**

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

***HACP Policy***

In determining the value of a checking account, the HACP will use the average monthly balance for the last six months.

In determining the value of a savings account, the HACP will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the HACP will multiply the value of the account by the current rate of interest paid on the account.

**Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds**

Interest or dividends earned by investment accounts are counted as actual income from

assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

***HACP Policy***

In determining the market value of an investment account, the HACP will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the HACP will calculate asset income based on the earnings for the most recent reporting period.

**Equity in Real Property or Other Capital Investments**

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

***HACP Policy***

In determining the equity, the HACP will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The HACP will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the HACP will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]

- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

***HACP Policy***
For the purposes of calculating expenses to convert to cash for real property, the HACP will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of

rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

***HACP Policy***
In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the HACP determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

***Trusts***
A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).
*Revocable Trusts*

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

***Nonrevocable Trusts***
In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in

section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

**Retirement Accounts**
***Company Retirement/Pension Accounts***

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26]. After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

***IRA, Keogh, and Similar Retirement Savings Accounts***
IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

**Personal Property**
Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

> ***HACP Policy***
> In determining the value of personal property held as an investment, the HACP will use the family's estimate of the value. The HACP may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
>
> Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

> ***HACP Policy***
> Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

**Life Insurance**
The cash value of a life insurance policy available to a family member before death,

such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount or total of dividends or interest is counted as income from the asset whether or not the family actually receives it.

## 6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

### Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14].

### Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

***HACP Policy***

When a delayed-start payment is received and reported during the period in which the HACP is processing an annual reexamination, the HACP will adjust the family share and HACP subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the HACP.

### Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

### Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2012-1].

  ***HACP Policy***
  The HACP will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

## 6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

## 6-I.J. WELFARE ASSISTANCE

### Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

**Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**
The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

**Covered Families**
The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

**Imputed Income**
When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

**Offsets**
The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

**6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]**
Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

**Alimony and Child Support**
The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

***HACP Policy***
The HACP will count court-awarded amounts for alimony and child support

unless the HACP verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

***Regular Contributions or Gifts***

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

***HACP Policy***

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the HACP. For contributions that may vary from month to month (e.g., utility payments), the HACP will include an average amount based upon past history.

## 6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9); Notice PIH 2015-21]

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

### Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9); FR 4/10/06; Notice PIH 2015-21]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of

tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of dependent child, institution of higher education, and parents in section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- Assistance under the Higher Education Act of 1965 includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- Assistance from private sources means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- Tuition and fees are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
    - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
    - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
    - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
    - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
    - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

**Student Financial Assistance <u>Excluded</u> from Annual Income [24 CFR 5.609(c)(6)]**
Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*

- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

## 6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. It includes:

  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))

  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC

  (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

  (e) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

  (f) Payments or allowances made under the Department of Health and Human

Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

(g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al., for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(r) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions

codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)

(v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

# PART II: ADJUSTED INCOME

## 6-II.A. INTRODUCTION

### Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:
> (1) $480 for each dependent,
> (2) $400 for any elderly family or disabled family,
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
> (i) Unreimbursed medical expenses of any elderly family or disabled family,
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

### Anticipating Expenses

***HACP Policy***

Generally, the HACP will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g. childcare during school and non-school periods and cyclical medical expenses), the HACP will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the HACP will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The HACP may require the family to provide documentation of payments made in the preceding year.

## 6-II.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

## 6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

## 6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income. The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

### Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

***HACP Policy***

The most current IRS Publication 502, *Medical and Dental Expenses,* will be used as a reference to determine the costs that qualify as medical expenses.

| Summary of Allowable Medical Expenses from IRS Publication 502 | |
|---|---|
| Services of medical professionals | Substance abuse treatment programs |
| Surgery and medical procedures that are necessary, legal, non-cosmetic | Psychiatric treatment |
| Services of medical facilities | Ambulance services and some costs of transportation related to medical expenses |
| Hospitalization, long-term care, and in-home nursing services | The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) |
| Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor | Cost and continuing care of necessary service animals |
| Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails) | |

| | |
|---|---|
| | Medical insurance premiums or the cost of a health maintenance organization (HMO) |
| **Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source. | |

**Families That Qualify for Both Medical and Disability Assistance Expenses**

***HACP Policy***

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACP will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## 6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

**Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

***HACP Policy***

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the HACP will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the HACP determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

**Eligible Disability Expenses**
Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

**Eligible Auxiliary Apparatus**

***HACP Policy***
Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

**Eligible Attendant Care**
The family determines the type of attendant care that is appropriate for the person with disabilities.

***HACP Policy***
Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible. If the care attendant also provides other services to the family, the HACP will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or

the number of persons under care.

**Payments to Family Members**
No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

**Necessary and Reasonable Expenses**
The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

***HACP Policy***
The HACP determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the HACP will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the HACP will consider, the family's justification for costs that exceed typical costs in the area.

**Families That Qualify for Both Medical and Disability Assistance Expenses**

***HACP Policy***
This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACP will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

**6-II.F. CHILDCARE EXPENSE DEDUCTION**
HUD defines *childcare expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

**Clarifying the Meaning of *Child* for This Deduction**
Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household

are included when determining the family's childcare expenses [HCV GB, p. 5-29].

**Qualifying for the Deduction**
**Determining Who Is Enabled to Pursue an Eligible Activity**

***HACP Policy***
The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the HACP will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

**Seeking Work**

***HACP Policy***
If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the HACP.

**Furthering Education**

***HACP Policy***
If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

**Being Gainfully Employed**

***HACP Policy***
If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

**Earned Income Limit on Childcare Expense Deduction**
When a family member looks for work or furthers his or her education, there is no cap

on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.
When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

***HACP Policy***
When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the HACP generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

**Eligible Childcare Expenses**
The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

**Allowable Childcare Activities**

***HACP Policy***
For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used

to enable a family member to conduct activities that are not eligible for consideration, the HACP will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

**Necessary and Reasonable Costs**

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

***HACP Policy***

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the HACP will use the schedule of childcare costs from the local welfare agency. Families may present, and the HACP will consider, justification for costs that exceed typical costs in the area.

# PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

## 6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

### TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

### Welfare Rent [24 CFR 5.628]

***HACP Policy***

Welfare rent does not apply in this locality.

### Minimum Rent [24 CFR 5.630]

***HACP Policy***

The minimum rent for this locality is $50.00 dollars.

### Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the HACP's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy, the HACP may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

### PHA Subsidy [24 CFR 982.505(b)]

The HACP will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

**Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]**
When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

***HACP Policy***
The HACP has the discretion to make utility reimbursements to the family or the utility provider.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

***HACP Policy***
The HACP will issue all utility reimbursements monthly.

## 6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

**HACP Policy**
The financial hardship rules described below do not apply in this jurisdiction because the HACP has established a minimum rent of $50.00 dollars.

**Overview**
If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

**HUD-Defined Financial Hardship**
Financial hardship includes the following situations:
(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

***HACP Policy***
A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.
For a family waiting for a determination of eligibility, the hardship period will end

as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

***HACP Policy***
For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

***HACP Policy***
In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

***HACP Policy***
The HACP has not established any additional hardship criteria.

**Implementation of Hardship Exemption**

***Determination of Hardship***
When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

***HACP Policy***
The HACP defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

| Example: Impact of Minimum Rent Exemption<br>Assume the PHA has established a minimum rent of $35. | |
|---|---|
| **Family Share – No Hardship** | **Family Share – With Hardship** |
| $0 30% of monthly adjusted<br>$15 income<br>N/A 10% of monthly gross income<br>$35 Welfare rent<br>Minimum rent | $0 30% of monthly adjusted<br>$15 income<br>N/A 10% of monthly gross income<br>$35 Welfare rent<br>Minimum rent |
| Minimum rent applies.<br>TTP = $35 | Hardship exemption granted.<br>TTP = $15 |

***HACP Policy***

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The HACP will make the determination of hardship within 30 calendar days.

**No Financial Hardship**

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

***HACP Policy***

The HACP will require the family to repay the suspended amount within 30 calendar days of the HACP's notice that a hardship exemption has not been granted.

**Temporary Hardship**

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have recently changed and the hardship is now a long-term hardship.

***HACP Policy***

The HACP will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

**Long-Term Hardship**
If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

***HACP Policy***
The hardship period ends when any of the following circumstances apply:
(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## 6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]

**Overview**
The HACP's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the HACP's payment standards. The establishment and revision of the HACP's payment standard schedule are covered in Chapter 16.

*Payment standard* is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the HACP's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the HACP has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The HACP is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.
If during the term of the HAP contract for a family's unit, the owner lowers the rent, the HACP will recalculate the HAP using the lower of the initial payment standard or the

gross rent for the unit [HCV GB, p. 7-8].

**Changes in Payment Standards**
When the HACP revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

**Decreases**
If a HACP changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the HACP is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the HACP does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the HACP may either reduce the payment standard to the current amount in effect on the HACP's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The HACP may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the HACP must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The HACP's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

> ***HACP Policy***
> If a HACP changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the HACP will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.
>
> The HACP will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

**Increases**
If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.
Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

**Changes in Family Unit Size**
Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

**Reasonable Accommodation**
If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

## 6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

**Overview**
A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using HACP subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the HACP's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

**Reasonable Accommodation**
HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the HACP's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the HACP will approve an allowance for air-conditioning, even if the HACP has determined that an allowance for air-conditioning generally is not needed.

In the cases where the unit size leased exceeds the family voucher size, as a reasonable accommodation, HACP may approve a utility allowance for the actual size of the unit leased.

The family must request the higher allowance and provide the HACP with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

**Utility Allowance Revisions**
At reexamination, the HACP must use the HACP current utility allowance schedule [24 CFR 982.517(d)(2)].

> ***HACP Policy***
> Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the most recent allowance adopted.

## 6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

## EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

**24 CFR 5.609**

***(a)*** *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

***(b)*** *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.311; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.

**HHS DEFINITION OF "ASSISTANCE"**

**45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

**260.31 What does the term “assistance” mean?**

(a)(1) The term “assistance” includes cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

1 Text of 45 CFR 260.31 follows.

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

## EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

**24 CFR 5.609**

***(c)*** *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child-care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the

Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See Section 6-I.M. for a list of benefits that qualify for this exclusion.]

## EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

## EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

### 24 CFR 5.617 Self-sufficiency incentives for persons with disabilities– Disallowance of increase in annual income.

***(a)*** *Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24

CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

***(b)*** *Definitions.* The following definitions apply for purposes of this section.

*Baseline income.* The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

*Disallowance*. Exclusion from annual income.

*Previously unemployed* includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

*Qualified family.* A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment,

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

***(c)*** *Disallowance of increase in annual income—*

(1) *Initial twelve-month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) *Second twelve-month exclusion and phase-in.* Upon expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24- month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to *May 9, 2016* will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

***(d)*** *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

## EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

**24 CFR 5.615**

**Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

***(a)*** *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

***(b)*** *Definitions.* The following definitions apply for purposes of this section:

*Covered families.* Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

*Economic self-sufficiency program*. See definition at Sec. 5.603.

*Imputed welfare income.* The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

*Specified welfare benefit reduction.*

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

***(c)*** *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family

member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

***(d)*** *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

***(e)*** *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the

term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

# Chapter 7

# VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2010-19]

## INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.
The PHA will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process.

Part II provides more detailed requirements related to family information.

Part III provides information on income and assets, and

Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

## PART I: GENERAL VERIFICATION REQUIREMENTS

### 7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

### Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family

members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

**Penalties for Failing to Consent [24 CFR 5.232]**
If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicant and terminate assistance to participant. The family may request an informal review (applicant) or informal hearing (participant) in accordance with PHA procedures.

## 7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

### HUD's Verification Hierarchy [Notice PIH 2010-19]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification that the PHA will use are:

• Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
• Up-front Income Verification (UIV) using a non-HUD system
• Written Third-Party Verification (may be provided by applicant or participant)
• Written Third-party Verification Form
• Oral Third-party Verification
• Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 below contains an excerpt from the notice that provides guidance with respect to how each method may be used.

**Exhibit 7-1 HUD's Verification Hierarchy**

| Level | Verification Technique | Ranking |
|---|---|---|
| **6** | **Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants) | **Highest** (Mandatory) |
| **5** | **Upfront Income Verification (UIV) using non-HUD system** | **Highest** (Optional) |
| **4** | **Written third Party Verification** | **High** (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information **and** is unable to provide acceptable documentation to support dispute) |
| **3** | **Written Third Party Verification Form** | **Medium-Low** (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation) |
| **2** | **Oral Third Party Verification** | **Low** (Mandatory if written third party verification is not available) |
| **1** | **Tenant Declaration** | **Low** (Use as a last resort when unable to obtain any type of third party verification) |

Each of the verification methods is discussed in subsequent sections below.

**Requirements for Acceptable Documents**

***HACP Policy:***

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the HACP request. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.
The HACP staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the HACP and must be signed in the presence of a HACP representative or HACP notary public.

**File Documentation**

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

***HACP Policy:***

The HACP will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing adjusted income

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH 2010-19].

**7-I.C. UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV

data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.

**Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

***EIV Income Reports***

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

***HACP Policy:***

The HACP will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, if necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the HACP determines through income reports and third-party

verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

**EIV Identity Verification**

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10].

When identity verification for a participant fails, a message will be displayed within the EIV System and no income information will be displayed.

***HACP Policy:***

The HACP will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

The HACP will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the HACP determines that discrepancies exist due to HACP errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

**Upfront Income Verification Using Non-HUD Systems (Optional)**

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

***HACP Policy:***

The HACP will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system

**7-I.D. Fixed Income Sources of Income**

For any family member with a fixed source of income, the PHA shall determine that family member's income by means of a streamlined income determination. A streamlined income determination must be conducted by applying, for each fixed-income source, the verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount.

(1) Family member with a fixed source of income is defined as a family member whose income includes periodic payments at reasonably predictable levels from one or more of the following sources:

(i) Social Security, Supplemental Security Income, Supplemental Disability Insurance,

(ii) Federal, state, local, or private pension plans,

(iii) Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or

(iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

(2) The HACP shall use a COLA or current rate of interest specific to the fixed source of income in order to adjust the income amount. The HACP shall verify the appropriate COLA or current rate of interest from a public source or through tenant-provided, third party-generated documentation. If no such verification is available, then the HACP shall obtain third-party verification of income amounts in order to calculate the change in income for the source.

(3) For any family member whose income is determined pursuant to a streamlined income determination, the HACP shall obtain third-party verification of all income amounts every 3 years.

## 7-I.E. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

### Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to, pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

***HACP Policy:***

Third-party documents provided by the family must be dated within 60 days of the HACP request date.

If the HACP determines that third-party documents provided by the family

are not acceptable, the HACP will explain the reason to the family and request additional documentation.

As verification of earned income, the HACP will require the family to provide the two most current, consecutive pay stubs.

**Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

***HACP Policy:***

The HACP will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the HACP.

**Oral Third-Party Verification [Notice PIH 2010-19]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

***HACP Policy:***

In collecting third-party oral verification, HACP staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the HACP will accept the verbal response as oral verification but will also request that the source complete and return any verification

forms that were provided.

**When Third-Party Verification is Not Required [Notice PIH 2010-19]**
Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

***HACP Policy:***
If the family cannot provide original documents, the HACP will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

**Primary Documents**
Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

**Imputed Assets**
HUD permits PHAs to accept a self-certification from a family as verification of assets disposed for less than fair market value [HCV GB, p. 5-28].

***HACP Policy:***
The HACP will accept a self-certification from a family as verification of assets disposed for less than fair market value.

**Value of Assets and Asset Income [24 CFR 982.516(a)]**
For families with net assets totaling $5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

***HACP Policy:***
For families with net assets totaling $5,000 or less, the HACP will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The HACP will use third-party documentation for assets as part of the

intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

## 7-I.E. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification or "tenant declaration" is used as a last resort when the PHA is unable to obtain third-party verification.

Self-certification is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $5,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the PHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

***HACP Policy:***

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the HACP.

The HACP may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the HACP and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a PHA representative or PHA notary public.

# PART II: VERIFYING FAMILY INFORMATION

## 7-II.A. VERIFICATION OF LEGAL IDENTITY

***HACP Policy:***

The HACP will require families to furnish verification of legal identity for each household member.

| Verification of Legal Identity for Adults | Verification of Legal Identity for Children |
|---|---|
| Birth certificate, naturalization papers<br>Church issued baptismal certificate<br>Current, valid driver's license or Department of Motor Vehicles identification card<br>U.S. military discharge (DD 214)<br>Current U.S. passport<br>Current employer identification card<br>Current government employer identification card with picture<br>An unexpired foreign passport with an I-551 stamp, or with Form I-94 attached which indicates an unexpired employment authorization<br>A Permanent Resident Card (often called a “green card”) or Alien Registration Receipt Card with photograph<br>An unexpired Temporary Resident Card<br>An unexpired Employment Authorization Card<br>An unexpired Employment Authorization Document issued by the Dept. of Homeland Security that includes a photograph (Form I-766)<br>Federal or state ID card provided it contains a photograph and identifying information such as name, date of birth, gender, height, eye color and address. | Birth certificate<br>Adoption papers<br>Custody agreement<br>Health and Human Services ID<br>Certified school records<br>Student Identification card<br>Clinic, doctor or hospital record<br>Day care or nursery school record |

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided, and at the HACP’s

discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the HACP and be signed in the presence of a HACP representative or HACP notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the HACP has reason to doubt the identity of a person representing him or herself to be a participant.

**7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2012-10]**

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010 and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

***HACP Policy:***

The HACP will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the HACP within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar

days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

***HACP Policy:***
The HACP will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the HACP will terminate the applicant or participant's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

***HACP Policy:***
The HACP will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

***HACP Policy:***
The HACP will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of

the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during a continuously assisted occupancy.

***HACP Policy:***

The HACP will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers, making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the HACP may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

***HACP Policy:***

Once an individual's status is classified as "verified" in HUD's EIV system, the HACP will remove and destroy copies of documentation accepted as evidence of social security numbers.

## 7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

***HACP Policy:***

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HACP will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during a continuously assisted occupancy.

## 7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

***HACP Policy:***

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

**Marriage**

***HACP Policy:***

Certification by the head of household is normally sufficient verification. If the HACP has reasonable doubts about a marital relationship, the HACP will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

**Separation or Divorce**

***HACP Policy:***

Certification by the head of household is normally sufficient verification. If the HACP has reasonable doubts about a separation or divorce, the HACP will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

**Absence of Adult Member**

***HACP Policy:***

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

**Foster Children and Foster Adults**

**HACP Policy:**
Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

**7-II.E. VERIFICATION OF STUDENT STATUS**
**General Requirements**

***HACP Policy:***
The HACP requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or cohead.
The family reports child-care expenses to enable a family member to further his or her education.
The family includes a student enrolled in an *institution of higher education.*

**Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**
This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

***HACP Policy:***
In accordance with the verification hierarchy described in section 7-1.B, the HACP will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of institution of higher education in the Higher Education Act of 1965 (see section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in section 3-II.E.

- The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see section 7-III.J) or the student's independence from his/her parents (see below).

**Independent Student**

***HACP Policy:***
The HACP will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of independent student (see section 3-II.E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of independent student (see section 3-II.E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the HACP determines that the student is a vulnerable youth (see section 3-II.E)

## 7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under

no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

**Family Members Receiving SSA Disability Benefits**
Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

> ***HACP Policy:***
> For family members claiming disability who ***receive*** disability benefits from the SSA, the HACP will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the HACP will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the HACP will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit-verification letter, he/she will be required to provide it to the HACP.

**Family Members Not Receiving SSA Disability Benefits**
Receipt of veteran's disability benefits, worker's compensation, or other non-SSA

benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

***HACP Policy:***
For family members claiming disability who ***do not receive*** disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## 7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

### Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.
The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during a continuously assisted occupancy. [24 CFR 5.508(g)(5)]

### U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.
The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

***HACP Policy:***
Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HACP receives information indicating that an individual's declaration may not be accurate.

### Eligible Immigrants Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.
The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the

family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

**PHA Verification** [HCV GB, pp. 5-3 and 5-7]
For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.
For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

### 7-II.H. VERIFICATION OF PREFERENCE STATUS
The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

***HACP Policy:***
The HACP will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The HACP will verify this preference using the HACP's termination records.

The HACP also offers a preference for victims of domestic violence, dating violence, sexual assault, or stalking, as described in Section 4-III.C. To verify that applicants qualify for the preference, the HACP will follow documentation requirements outlined in Section 16-IX.D.

## PART III: VERIFYING INCOME AND ASSETS
Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

### 7-III.A. EARNED INCOME
**Tips**

***HACP Policy:***
Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

**Wages**

***HACP Policy:***

For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

## 7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

***HACP Policy:***

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted & the business owner or self-employed person must certify to its accuracy.
All schedules completed for filing federal and local taxes in the preceding year.
If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The HACP will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the HACP may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the HACP will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, the HACP will require the family to provide documentation of income and expenses for this period and use that information to project income.

## 7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

## Social Security (SS)/Supplemental Security Income (SSI) Benefits

***HACP Policy:***

To verify the SS/SSI benefits of applicants, the HACP will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the HACP will help the applicant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit-verification letter, he/she will be required to provide it to the HACP.

To verify the SS/SSI benefits of participants, the HACP will obtain information about SS/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the HACP will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the HACP will help the participant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit-verification letter, he/she will be required to provide it to the HACP.

## 7-III.D. ALIMONY OR CHILD SUPPORT

**HACP Policy:**

The methods the HACP will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 60 days prior to HACP request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

***Note:*** Families are not required to undertake independent enforcement action.

## 7-III.E. ASSETS AND INCOME FROM ASSETS

### Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

***HACP Policy:***

The HACP will verify the value of assets disposed only if:

The HACP does not already have a reasonable estimation of its value from previously collected information, or
The amount reported by the family in the certification appears to be in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the HACP verified this amount. Now the person reports that she has given this $10,000 to her son. The HACP has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.
Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued the share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HACP will verify the value of this asset.

## 7-III.F. NET INCOME FROM RENTAL PROPERTY

***HACP Policy:***

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HACP will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including the following: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

## 7-III.G. RETIREMENT ACCOUNTS

***HACP Policy:***

The HACP will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the HACP will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the HACP will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the HACP will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

## 7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional

documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.
For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

***HACP Policy:***
The HACP will accept the family's self-certification as verification of fully excluded income. The HACP may request additional documentation if needed to document the income source.

The HACP will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

## 7-III.I. ZERO ANNUAL INCOME STATUS

***HACP Policy:***
The HACP will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

## 7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see section 7-III.H).

***HACP Policy:***
For a student subject to having a portion of his/her student financial

assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the HACP will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the HACP will request written verification of the student's tuition amount.

If the HACP is unable to obtain third-party written verification of the requested information, the HACP will pursue other forms of verification following the verification hierarchy in section 7-I.B.

## 7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents or a *vulnerable youth* in accordance with PHA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

***HACP Policy:***

If the HACP is required to determine the income eligibility of a student's parents, the HACP will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-II.E). The HACP will send the request directly to the parents, who will be required to certify their income under penalty of perjury. The parents will be required to submit the information directly to the HACP. The required information must be submitted (postmarked) within 10 business days of the date of the HACP's request or within any extended timeframe approved by the HACP.

The HACP reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and

other official and authentic documents from a federal, state, or local agency.

## PART IV: VERIFYING MANDATORY DEDUCTIONS

### 7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

**Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person aged 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

**Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

### 7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense**

***HACP Policy:***

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- The HACP will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HACP will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.

- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the HACP must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

**Eligible Household**
The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

**Qualified Expenses**
To be eligible for the medical-expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA's policy on what counts as a medical expense.

**Unreimbursed Expenses**
To be eligible for the medical-expenses deduction, the costs must not be reimbursed by another source.

***HACP Policy:***
The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

**Expenses Incurred in Past Years**

***HACP Policy:***
When anticipated costs are related to on-going payment of medical bills incurred in past years, the HACP will verify:

- The anticipated repayment schedule,
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

## 7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense**

**Attendant Care**

***HACP Policy:***

The HACP will accept written third-party documents provided by the family.

If family-provided documents are not available, the HACP will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

**Auxiliary Apparatus**

***HACP Policy:***

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the HACP must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

**Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

**Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

> ***HACP Policy:***
> The HACP will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.
>
> If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance) to work.

**Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

> ***HACP Policy:***
> The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

**7-IV.D. CHILDCARE EXPENSES**

Policies related to childcare expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child-care.

- The costs are reasonable.

**Eligible Child**
To be eligible for the child-care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

**Unreimbursed Expense**
To be eligible for the child-care deduction, the costs must not be reimbursed by another source.

***HACP Policy:***
The family (and the care provider) will be required to certify that the child-care expenses are not paid or reimbursed to the family from any source.

**Pursuing an Eligible Activity**
The PHA must verify that the family member(s) the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

***HACP Policy:***
Information to be Gathered
The HACP will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work
Whenever possible, the HACP will use documentation from a state or local agency that monitors work-related requirements (e.g. welfare or unemployment). In such cases, the HACP will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the HACP any reports provided to the other agency.

In the event third-party verification is not available, the HACP will provide the family with a form on which the family member must record job search efforts. The HACP will review this information at each subsequent reexamination for which this deduction is claimed.
Furthering Education

The HACP will request third-party documentation to verify that the person

permitted to further his or her education by the child-care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.
Gainful Employment

The HACP will seek third-party verification of the work schedule of the person who is permitted to work by the child-care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

**Allowable Type of Childcare**
The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

***HACP Policy:***
The HACP will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HACP will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HACP will verify that the child-care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

**Reasonableness of Expenses**
Only reasonable child-care costs can be deducted.

***HACP Policy:***
The actual costs the family incurs will be compared with the HACP's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the HACP will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

**Elderly Noncitizens**

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

**All other Noncitizens**

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - "Admitted as a Refugee Pursuant to Section 207"
  - "Section 208" or "Asylum"
  - "Section 243(h)" or "Deportation stayed by Attorney General"
  - "Paroled Pursuant to Section 221 (d)(5) of the USCIS"

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

| | |
|---|---|
| • Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. | Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”. |
| • A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or<br>• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register* | |

# Chapter 8

## HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

## INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

> Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

## 8-I.A. GENERAL HUD REQUIREMENTS

### HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

### Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

### Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary, to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest-bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the American Disabilities Act Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

***HACP Policy:***

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the HACP for review.

## 8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

***HACP Policy:***

***Detectors***

Carbon Monoxide (CO2) detectors must be installed in accordance with California law (SB-183 - Carbon Monoxide Poisoning Prevention Act).
A. Carbon Monoxide devices must be installed in the following locations:
1. Outside each separate sleeping area in the immediate vicinity of the bedroom(s) in the dwelling unit,

2. On every level including the basement within which fuel-fired appliances are installed,
3. In dwelling units (single-family dwelling, duplex, condominium, or dwelling unit in a multiple-unit dwelling unit building) that have attached garages.
B. The Carbon Monoxide Detector must be operational at the time the tenant takes possession of the unit.

Smoke Detectors must be installed in accordance with the requirements of California Residential Building Code (R314).
A. Smoke alarms are to be installed in the following locations:
1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms. One alarm in the hallway outside each cluster of bedrooms is acceptable.
3. On each additional story of the dwelling, including basements and habitable attics but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

B. Effective July 1, 2015, all battery-operated smoke alarms MUST contain a non- removable battery that is rated to last 10 years. Owners should indicate the install date on the smoke alarm unit. If no date has been entered on the smoke alarm unit, then the date of manufacture indicated on the smoke alarm unit shall be used to determine if the unit is compliant.

Landlords cannot make the tenant responsible for testing or maintaining the smoke alarm. It is the tenant's responsibility to notify the owner if a smoke alarm or Carbon Monoxide Detector is deficient or inoperable.

**Garages and Storage Areas**
Either attached or detached, the garage must be a part of the rental agreement. Owners are not permitted to store their belongings or rent the space **unless the garage has been properly converted into a separate dwelling unit as defined in the lease or rental agreement**. Existing HAP contracts wherein owners were allowed to store their items in detached garages or other storage structures will be grandfathered into compliance. New contracts effective after January 1, 2014 will be governed by this policy.

***Additional Plumbing Requirements***
Water Heaters must meet the following State requirements:

California Health and Safety Code, Section 19211(a): Water heaters shall be braced, anchored, or strapped to resist falling or horizontal displacement due to earthquake motion. At a minimum, any water heater shall be secured in accordance with California Plumbing Code pursuant to 17958.5.

Uniform Plumbing Code (UPC) 510.5: Water heater must be strapped with two seismic straps: one located within the top third of the water heater and one at the bottom third. The strap must be located at least 4" away from the water heater controls.

***Utilities***

In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption and direct billing by the utility service provider. The owner must be responsible for paying the utilities for units with centralized shared utility meters for their units. The owner is not permitted to request or require the tenant to reimburse them for utility use in units with centralized utility meters.

Apartment communities that have centralized utility meters and have a Consumption Calculation Plan or Third Party Billing Contract must provide the HACCC a copy of the plan at the time of the initial process or when a request for change is submitted following the initial term or the lease.

**Thermal Environment [HCV GB p.10-7]**

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

***HACP Policy:***

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

## Clarifications of HUD Requirements

***HACP Policy:***

As permitted by HUD, the HACP has adopted the following specific requirements that elaborate on HUD standards.

### Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

### Appliances

The oven heating elements and controls must work and all burners on the stove range must also work. All stove or range knobs must be present with readable temperature markings.

The family may choose to accept a microwave oven in place of a conventional oven, stove or range if the oven/stove/range are tenant supplied or if microwaves are furnished in both subsidized and unsubsidized units in the building or premises.

The family may choose to supply their own refrigerator but it must be in proper working order per HQS Standards.

Any owner-supplied appliances in the unit at initial inspection shall be maintained in proper working order by the owner throughout the tenancy. Should an owner-supplied appliance malfunction, the owner has the right to either repair the appliance or remove the defective item. If the owner refuses to repair an appliance but rather chooses to remove the appliance, this shall constitute a reduction in services and result in a reduction in the unit rent comparable to the annual utility allowance for a comparable tenant-provided appliance.

### Bedrooms

Defined as a room used for sleeping (regardless of the type of room). .At least one window is required. If the windows in the sleeping rooms are designed to be opened, at least one window must be openable and must be in proper working order.

Also required in a bedroom:

- Two working outlets or one working outlet and one permanently installed light fixture.
- A permanent or removable closet is required in all rooms considered bedrooms.

Bedrooms in basements or attics are not permitted unless they meet local code requirements (unit meets bedroom/bathroom definition from Contra Costa County Tax Assessors Office) as well as HQS Standards. They must have adequate ventilation with emergency exit capability.

**Windows**

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens must be in good condition (applies only if screens are present).

**Doors**

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold. All door jambs must be intact. Door jambs must have metal striker plates installed to maintain the integrity of the jam and function of the local mechanism. Each main swinging entry door of dwelling unit must have an operable single cylinder dead bolt lock. These doors include any exterior that will allow access to the unit (front door, door off a kitchen to rear yard, the door from the unit to a garage and any doors that allow direct access to the unit). Double key deadbolt locks are prohibited on any door in the unit. Egress doors shall be readily openable without the use of a key or special knowledge or effort.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

**Floors**

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

**Sinks**

All sinks and commode water lines must have shut off valves,

unless faucets are wall mounted.

All sinks must have functioning stoppers.

**Toilets**

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

**Unit Exterior**

All rental units must have a street number and unit number or letter clearly labeled and visible from the street.

Each rental unit must have its own properly labeled official mailbox where the U.S. Postal Service officially delivers mail. **The exclusive use of the mailing address of the unit is for the family and approved family members as described in Chapter 3.I.J - Guests.**

Exterior fences: Owners may be requested to install, repair or remove a fence if a safety or security hazard is present and/or an area of the property must be separated for security reasons.

**Security**

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

## 8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification.

***HACP Policy:***

The following are considered **life-threatening conditions**:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling.
- Natural or LP gas or fuel oil leaks
- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with

potential for explosion or fire or that results in a health risk if inhaled.

- Any electrical problem or condition that could result in shock or fire.
- A light fixture readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed.
- A light fixture is hanging by its wires.
- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit.
- A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed
- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses.
- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections.
- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire.
- Exposed bare wires or electrical connections.
- Any condition that results in openings in electrical panels or electrical control device enclosures
- Water leaking or ponding near any electrical device.
- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit between October 1 and May 31st.
- Utilities not in service, including no running hot water.
- Conditions that present the imminent possibility of injury.
- Obstacles that prevent safe entrance or exit from the unit.
- Any components that affect the function of the fire escape are missing or damaged.
- Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency.

- The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency.
- Absence of a functioning toilet in the unit
- Inoperable or missing smoke detectors
- Missing or inoperable carbon monoxide detector
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting
- The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases.
- A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside.
- A fuel-fired space heater is not properly vented or lacks available combustion air.
- A non-vented space heater is present.
- Safety devices on a fuel-fired space heater are missing or damaged.
- The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas
- A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
- A fuel-fired space heater is not properly vented or lacks available combustion air
- A non-vented space heater is present
- Safety devices on a fuel-fired space heater are missing or damaged
- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit.

If an owner fails to correct life-threatening conditions as required by the HACP, the HACP will enforce the HQS in accordance with HUD requirements. See 8-II-G.

8-10

If a family fails to correct a family-caused life-threatening condition as required by the HACP, the HACP will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the HACP determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

## 8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

### Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

### Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

## 8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the

PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

### 8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family.
- Have at least one bedroom or living/sleeping room for each two persons.

A unit that does not meet these HQS space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

# PART II: THE INSPECTION PROCESS

## 8-II.A. OVERVIEW [24 CFR 982.405]

### Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- ***Initial Inspections***. The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- ***Annual/Biennial Inspections***. HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on the PHA's Policy: To confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- ***Special Inspections***. A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- ***Quality Control Inspections***. HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

### Inspection of PHA-Owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

### Inspection Costs [Notice PIH 2016-05]

The PHA may not charge the family for unit inspections or re-inspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the

unit. However, the PHA may charge a reasonable fee to owners for reinspections in two situations:

1) when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and

2) when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

***HACP Policy:***

The HACP will not charge a fee for failed re-inspections.

**Notice and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

***HACP Policy:***

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency.

**Owner and Family Inspection Attendance**

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

***HACP Policy:***

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the HACP will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required.

## 8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

### Initial Inspections [FR Notice 1/18/17]

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

***HACP Policy:***

The unit must pass the HQS inspection on or before the effective date of the HAP contract.

The HACP will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing a HAP contract with the owner.

### Timing of Initial Inspections

HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable, such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

***HACP Policy:***

The HACP will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

### Inspection Results and Reinspections

***HACP Policy:***

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the HACP for good cause. The HACP will reinspect the unit within 5 business days of the date the owner notifies the HACP that the required corrections have been made.

If the time period for correcting the deficiencies (or any HACP -approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the HACP will notify the owner and the family that the unit has been rejected and that the family must search for another unit.

The HACP may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new RTA after the owner has made repairs, if they are unable to locate another suitable unit.

**Utilities**

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

***HACP Policy:***

If utility service is not available for testing at the time of the initial inspection, the HACP will allow the utilities to be placed in service after the unit has met all other HQS requirements. The HACP will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the HACP.

**Appliances [Form HUD-52580]**

***HACP Policy:***

If the family is responsible for supplying the stove and/or refrigerator, the HACP will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the HACP. The HACP will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

## 8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

***HACP Policy:***

Each unit under HAP contract must be inspected within **24 months** of the last full HQS inspection.

The HACP will not rely on alternative inspection standards.

**Scheduling the Inspection**

Each unit under HAP contract must be inspected within 24 months of the last full HQS inspection after July 1, 2013. If no inspection is conducted by July 1, 2013, an inspection must be completed within 12 months from the last full HQS inspection. Thereafter, the unit must be inspected no later than 24 months from the last inspection date.

***HACP Policy:***

If an adult family member cannot be present on the scheduled date, the

family should request that the HACP reschedule the inspection. The HACP and family will agree on a new inspection date that generally should take place within 5 business days of the originally scheduled date. The HACP may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the HACP will automatically schedule a second inspection. If the family misses two scheduled inspections without approval, the HACP will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

## 8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

***HACP Policy:***

During a special inspection, the HACP generally will inspect only those deficiencies that were reported writing to the owner and given the owner a reasonable period of time to respond. The HACP Staff may request a copy of the written notice to ensure the landlord has been notified and been given the opportunity to make repairs. The HACP reserves the right to waive this requirement when necessary. HACP will complete a special inspection for any reported life-threatening conditions. During the inspection, the inspector will inspect the reported items, however, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs. Pictures may be taken during the inspection.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the HACP may elect to conduct a full annual inspection.

## 8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection

(initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

## 8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

### Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

***HACP Policy:***

When life-threatening conditions are identified, the HACP will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the HACP's notice.

When failures that are not life-threatening are identified, the HACP will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any HACP approved extension), the owner's HAP will be abated in accordance with HACP Policy: (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any HACP approved extension, if applicable) the family's assistance will be terminated in accordance with HACP Policy: (see Chapter 12).

### Extensions

For conditions that are life-threatening, the HACP cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the HACP may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

***HACP Policy:***

Extensions will be granted in cases where the HACP has determined that the owner has made a good faith effort to correct the deficiencies but has been unable to complete the work within the time frame for reasons

beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The HACP will not grant oral extensions. Requests for extensions must be made in writing, however emails, faxes and letters will be accepted. Must be received no less than 2 calendar days before the scheduled inspection. The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

**Re-inspections**

***HACP Policy:***

The HACP will conduct a reinspection immediately following the end of the corrective period, or any HACP approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the HACP will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with HACP policies. If the HACP is unable to gain entry to the unit in order to conduct the scheduled reinspection, the HACP will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

## 8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

### HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

***HACP Policy:***

The HACP will make all HAP abatements effective the first of the month following the expiration of the HACP specified correction period (including any extension).

The HACP will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

### HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

***HACP Policy:***

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies the HACP before the termination date of the HAP contract, the HACP may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the HACP is 30 days.

## 8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA

(and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

## PART III: RENT REASONABLENESS [24 CFR 982.507]

### 8-III.A. OVERVIEW

Except in the case of certain low-income housing tax credits (LIHTC-) and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

#### PHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the HACP must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the HACP that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

### 8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

#### Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for

rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

***HACP Policy:***

**Initial Rents**

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the HACP may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the HACP will consider unit size and length of tenancy in the other units.

The HACP will determine whether the requested increase is reasonable within 5 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

**Rent Increases**

The HACP will determine whether the requested increase is reasonable within 30 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing. All approved rent adjustments will be effective the first of the month following:

a) 60 calendar days after the postmark date or fax time-date confirmation of the owner's request or
b) the date the unit passed its latest annual inspection or
c) on the date specified by the owner, whichever is later.

If the request is incomplete or incorrect the owner will be notified within 15 calendar days and given an opportunity to resubmit the request. The effective date will be the first of the month following a) 60 calendar days after the postmark date or fax time-date confirmation of the owners **corrected request**, or b) the date the unit passed its latest annual inspection or c) on the date specified by the owner, whichever is later.

All rents adjustments will be effective the first of the month following 60 days after the HACP's receipt of the owner's request or on the date specified by the owner, whichever is later.

**PHA- and HUD-Initiated Rent Reasonableness Determinations**

HUD requires the HACP to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent

reasonableness is needed at any time.

***HACP Policy:***

In addition to the instances described above, the HACP will make a determination of rent reasonableness at any time after the initial occupancy period if:

1) the HACP determines that the initial rent reasonableness determination was in error; or

2) the HACP determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

**Low Income Housing Tax Credits (LIHTC)- and HOME-Assisted Units [24 CFR 982.507(c)]**

For units receiving LIHTCs or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: 1) the reasonable rent as determined from the rent comparability study; or 2) the payment standard established by the PHA for the unit size involved.

## 8-III.C. HOW COMPARABILITY IS ESTABLISHED

### Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparable units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

### Units that Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

***Note:*** Notice PIH 2011-46, issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

### Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

## 8-III.D . PHA RENT REASONABLENESS METHODOLOGY

### How Market Data Is Collected

**HACP Policy:**

HACP contracts with ***AffordableHousing.com*** previously known as *GoSection 8* to collect and maintain data on market rents in HACP's jurisdiction. Information sources used by AffordableHousing.com include, but are not limited to, newspapers, internet listing services, realtors, market surveys and inquiries of owners and property managers. All HUD required comparison factors are maintained in the AffordableHousing.com rent comparable database.AffordableHousing.com is updated on an ongoing basis and rent information that is more than 12 months old is no longer accessible in the database.

### How Rents Are Determined

**HACP Policy:**

The AffordableHousing.com Rent Reasonableness Software utilizes a unit-to-unit comparison, similar to real estate appraisal, where a direct

comparison is made between the rent for the subject HCV assisted unit and the rent for unassisted comparable units. Comparable units are drawn from a database of current, real-time market data maintained by the vendor. After identifying specific units to use as comparables based on location, unit type and characteristics, *AffordableHousing.com* provides similarity and credibility scores and market rent data to determine if the rent is supported by the market data.

*AffordableHousing.com* also employs unit-to-market principles to assist staff in making market-based adjustments to rental values. The blended approach - identifying comparable units that are the closest possible match to the proposed HCV assisted unit and then adjusting rental values to address any remaining critical differences that impact market rent - ensures the results are grounded in accurate market-based rental values.

The *AffordableHousing.com* Database will return the three units whose similarity and credibility score most closely matches the subject unit. All comparables used to evaluate the rent must have a similarity rating of 90 % or more and a credibility rating of 70 % or more, when available. If three comparables that have similarity ratings of 90% or more and credibility ratings of 70 % or more cannot be found, then the Housing manager must approve the rent reasonableness certification.

The subject unit rent must be supported by the three comparables to be approved.

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $458.

For properties where the owner has unassisted units at market rent in the same building, the unassisted unit rents will also be considered for rent reasonableness determination. The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The HACP may develop a range of prices for comparable units by bedroom size within defined market areas.

The HACP will notify the owner of the rent the PHA can approve based upon its analysis of rents for comparable units. If the comparable rent is lower than that requested by the owner, the owner may be requested to submit information about other comparable units in the market area. HACP Staff will confirm the accuracy of the information provided and

consider this additional information when making rent determinations. The owner must submit any additional information within 7 calendar days of HACP's request for information or the owner's request to submit information.

If the comparable rent is still lower, HACCC staff will ask the owner if he or she is willing to accept the comparable rent.

## EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

### Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

### Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

### Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

### Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

### Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

### Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when

porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

**Interior Air Quality**

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

**Water Supply**

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

**Lead-Based Paint**

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero-bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the PHA). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

**Access**

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in

case of fire.

**Site and Neighborhood**

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

**Sanitary Condition**

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

**Smoke Detectors**

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

**Hazards and Heath/Safety**

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

## EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- Sanitary Facilities. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- Food Preparation and Refuse Disposal. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- Space and Security. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- Energy conservation items. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- Illumination and Electricity. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

(6) Structure and Materials. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) Indoor Air. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present, they must be in good condition.

(8) Sanitary Conditions. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) Neighborhood conditions. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

# Chapter 9

# GENERAL LEASING POLICIES

## INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval (RTA) to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approved by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

## 9-I.A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager or his/her rights and obligations under the Violence against Women Act of 2013 (VAWA) [24 CFR 5.2005(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records) and the name and address (if known to the PHA) of

the landlord at the family's current and prior address [24 CFR 982.307(b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The PHA may not disclose to the owner any confidential information provided by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

***HACP Policy:***

The HACP will not screen applicants for family behavior or suitability for tenancy.

The HACP will not provide additional screening information to the owner.

The HACP will screen only for program compliance.

## 9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed RTA – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a

member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

***HACP Policy:***

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax.

The family may not submit, and the HACP will not process, more than one (1) RTA per family at a time.

When the family submits the RTA the HACP will review the RTA for completeness.

- If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the HACP will notify the family and the owner of the deficiencies.
- Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. The HACP will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the HACP will also review the terms of the RTA for consistency with the terms of the proposed lease.

- If the terms of the RTA are not consistent with the terms of the proposed lease, the HACP will notify the family and the owner of the discrepancies.
- Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The HACP will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the HACP will attempt to communicate with the owner and family by phone, fax, or email. The HACP will use mail when the parties cannot be reached by phone, fax, or email.

## 9-I.C. OWNER PARTICIPATION

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

## 9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

### Ineligible Units [24 CFR 982.352(a)]

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

### PHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

***HACP Policy:***

The HACP does have eligible HACP-owned units available for leasing under the voucher program.

### Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special

housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance,
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements,
- Section 236 rental assistance payments,
- Tenant-based assistance under the HOME Program,
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration),
- Any local or state rent subsidy,
- Section 202 supportive housing for the elderly,
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, state, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

### Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter

8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

### Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

### Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

### Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

## 9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

### Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner’s lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

***HACP Policy:***

The HACP does not provide a model or standard dwelling lease for owners to use in the HCV program.

### Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

### Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

***HACP Policy:***

The HACP may approve an initial lease term of less than one (1) year under current market conditions. Due to the administrative burden, ***no month to month*** leases will be accepted as the initial term for the tenancy.

During the initial term of the lease, the owner may not raise the rent [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

**Security Deposit [24 CFR 982.313 (a) and (b)]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

***HACP Policy:***

The HACP will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

**Separate Non-Lease Agreements between Owner and Tenant**

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

***HACP Policy:***

The HACP permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

**PHA Review of Lease**

The PHA will review the dwelling lease for compliance with all applicable requirements.

***HACP Policy:***

If the dwelling lease is incomplete or incorrect, the HACP will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The HACP will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the HACP will attempt to communicate with the owner and family by phone, fax, or email. The HACP will use mail when the parties can't be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with state and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with state or local

law [24 CFR 982.308(c)]

***HACP Policy:***

The HACP may review the owner's lease for compliance with state/local law. If HACP becomes aware that an owner's lease does not comply with state and local law, then HACP will require the owner to modify the lease in order to comply with state and local law. If the owner does not submit this within 7 calendar days, then HACP will take any and all actions appropriate under its contract with the owner, including cancellation.

## 9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

***HACP Policy:***

The HACP will complete its determination within **10 business days** of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the HACP, the HACP will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. The HACP will not accept corrections over the phone.

If the HACP determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The HACP will instruct

the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, the HACP will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

## 9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner.

***HACP Policy:***

Owners who have not previously participated in the HCV program may be invited to attend a meeting with the HACP in which the terms of the Tenancy Addendum and the HAP contract will be explained. The HACP

may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the PHA. The HACP will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the HACP will execute the HAP contract. The HACP will not execute the HAP contract until the owner has submitted IRS form W-9. The HACP will ensure that the owner receives a copy of the executed HAP contract.

As required under VAWA 2013, once the HAP contract and lease have been executed and the family has been admitted to the program, the HACP will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

See Chapter 13 for a discussion of the HAP contract and contract provisions.

## 9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the

rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

***HACP Policy:***

Where the owner is requesting a rent increase, the HACP will determine whether the requested increase is reasonable within 30 days of prior to the effective date. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 Day period after the owner notifies the HACP of the rent change or on the date specified by the owner, whichever is later.

# Chapter 10

# MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

## INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

## PART I: MOVING WITH CONTINUED ASSISTANCE

### 10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

***HACP Policy:***

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the HACP a copy of the termination agreement. HACP's Mutual Agreement to Terminate the Lease form must be submitted to HACP staff before the move can be approved.

- If the owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other

process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the HACP a copy of any owner eviction notice [24 CFR 982.551(g)].

- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4), 24 CFR 982.353(b)]. The HACP must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).

  ***HACP Policy:***

  If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the HACP based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, the HACP will request that the resident request the emergency transfer using form HUD-5383, and the HACP will request documentation in accordance with section 16-IX.D of this plan.

  The HACP reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the HACP will document the waiver in the family's file.

  The HACP may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

  Before granting an emergency transfer, the HACP will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

  The HACP has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan and discuses external transfers to other covered housing programs.

- The HACP has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].
- The HACP determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family

composition. In such cases, the HACP must issue the family a new voucher, and the family and HACP must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the HACP must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACP gives notice to the owner. [24 CFR 982.403(a) and (c)]

## 10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

### Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

#### *Insufficient Funding*

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)]. However, Notice PIH 2016-09 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

***HACP Policy:***

The HACP will deny a family permission to move on grounds that the HACP does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the HACP can demonstrate that the move will, in fact, result in higher subsidy costs (c) the HACP can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving HACP is not absorbing the voucher.

If the HACP does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within the PHA's jurisdiction. The PHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within the PHA's jurisdiction and outside under portability, the HACP will not deny a move due to insufficient funding if the HACP

previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The HACP will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The HACP will create a list of families whose moves have been denied due to insufficient funding. The HACP will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The HACP will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

The HACP will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

### *Grounds for Denial or Termination of Assistance*

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.354(e)(2)].

***HACP Policy:***

If the HACP has grounds for denying or terminating a family's assistance, the HACP will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

### Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period.

However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

***HACP Policy:***

The HACP will deny a family permission to make an elective move during

the family's initial lease term. This policy applies to moves within the PHA's jurisdiction or outside it under portability.

The HACP may also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the PHA's jurisdiction.

The HACP will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the HACP will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

## 10-I.C. MOVING PROCESS

### Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2)]. The notices must be in writing [24 CFR 982.5].

### Approval

***HACP Policy:***

Upon receipt of a family's notification that it wishes to move, the HACP will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. The HACP will notify the family in writing of its determination within ***10 business days*** following receipt of the family's notification.

### Reexamination of Family Income and Composition

***HACP Policy:***

For families approved to move to a new unit within the PHA's jurisdiction, the HACP will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the HACP will follow the policies set forth in Part II of this chapter.

**Voucher Issuance and Briefing**

***HACP Policy:***

For families approved to move to a new unit within the PHA's jurisdiction, the HACP will issue a new voucher within ***10 business days*** of the PHA's written approval to move. No briefing is required for these families. The HACP will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the HACP approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the HACP will follow the policies set forth in Part II of this chapter.

**Housing Assistance Payments [24 CFR 982.311(d)]**

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

## PART II: PORTABILITY

### 10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another

PHA is known as portability. The PHA that issues the voucher is called the **initial PHA.** The PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA.**

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

## 10-II.B. INITIAL PHA ROLE

### Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family [24 CFR 982.255(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and HACP of the City of Pittsburg Policy determine whether a family qualifies.

### *Applicant Families*

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

***HACP Policy:***

In determining whether or not to deny an applicant family permission to move under portability because the HACP lacks sufficient funding or has grounds for denying assistance to the family, the initial HACP will follow the policies established in section 10-I.B of this chapter. If the HACP does deny the move due to insufficient funding, the HACP will notify HUD in writing within ***10 business days*** of the PHA's determination to deny the move.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

***HACP Policy:***

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The HACP will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking.

### *Participant Families*

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from

further violence if he or she remained in the unit [24 CFR 982.353(b)].

***HACP Policy:***

The HACP will determine whether a participant family may move out of the PHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The HACP will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

**Determining Income Eligibility**

***Applicant Families***

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353(d)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

***Participant Families***

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

**Reexamination of Family Income and Composition**

No new reexamination of family income and composition is required for an applicant family.

***HACP Policy:***

For a participant family approved to move out of its jurisdiction under portability, the HACP generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The HACP will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

## Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

***HACP Policy:***

No formal briefing will be required for a participant family wishing to move outside the PHA's jurisdiction under portability. However, the HACP will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

The HACP will provide the name, address, and phone of the contact for the PHAs in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, the PHA will advise the family that the family selects the receiving PHA and notify the initial PHA of which receiving PHA was selected. The HACP will provide the family with contact information for all of the receiving PHAs that serve the area. The HACP will not provide any additional information about receiving PHAs in the area. The HACP will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, the HACP will not provide the family with information for all receiving PHAs in the area.

The HACP will advise the family that they will be under the RHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

## Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5.

***HACP Policy:***

For participating families approved to move under portability, the HACP will issue a new voucher within ***10 business days*** of the PHA's written approval to move.

The initial term of the voucher will be 120 days.

### Voucher Extensions and Expiration

***HACP Policy:***

The HACP will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the PHA's jurisdiction except under the following circumstances:

(a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA,

(b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or

(c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 90 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

### Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [24 CFR 982.355(c)(3)].

***HACP Policy:***

The HACP will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

### Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

***HACP Policy:***

Because the portability process is time-sensitive, the HACP will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The HACP will pass this information along to the family. The HACP will also ask for the name, address, telephone number, fax and e-mail of the person responsible for processing the billing information.

**Sending Documentation to the Receiving PHA**

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]
- A copy of the family's voucher [Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09]

***HACP Policy:***

In addition to these documents, the HACP will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)
Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
Documentation of legal identity
Documentation of citizenship or eligible immigration status
Documentation of participation in the earned income disallowance (EID) benefit
Documentation of participation in a family self-sufficiency (FSS) program

The HACP will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

### Initial Billing Deadline [Notice PIH 2016-09]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the initial PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

***HACP Policy:***

If the HACP has not received an initial billing notice from the receiving PHA within the billing deadline, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The HACP will send the receiving PHA a written confirmation of its decision by mail.

The HACP will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

### Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of overleasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

***HACP Policy:***

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

### Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

### Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

## 10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not

used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

**Responding to Initial PHA's Request [24 CFR 982.355(c)]**

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4).

***HACP Policy:***

The HACP will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

**Initial Contact with Family**

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

**Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2016-09].

***HACP Policy:***

The HACP may not require the family to attend a briefing. The HACP will provide the family with a briefing packet (as described in Chapter 5) and in an individual briefing, will orally inform the family about the PHA's payment and subsidy standards, procedures for requesting approval of a unit, the

unit inspection process, and the leasing process. The HACP will suggest that the family attend a full briefing at a later date.

**Income Eligibility and Reexamination**

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

***HACP Policy:***

For any family moving into its jurisdiction under portability, the HACP will conduct a new reexamination of family income and composition. However, the HACP will not delay issuing the family a voucher for this reason. Nor will the HACP delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the HACP cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the HACP will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

**Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

***Timing of Voucher Issuance***

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2016-09].

***HACP Policy:***

When a family ports into its jurisdiction, the HACP will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The HACP will update the family's information when

verification has been completed.

### *Voucher Term*

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

***HACP Policy:***

The receiving PHA's voucher will expire 30 calendars days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

### *Voucher Extensions [24 CFR 982.355(c)(14), Notice 2016-09]*

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

***HACP Policy:***

The HACP generally will not extend the term of the voucher that it issues to an incoming portable family unless the HACP plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The HACP will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

### *Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]*

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

### Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an

eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2016-09].

## Administering a Portable Family's Voucher

### *Portability Billing [24 CFR 982.355(e)]*

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

***HACP Policy:***

Unless the HACP negotiates a different amount of reimbursement with the initial PHA, the HACP will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

### *Initial Billing Deadline*

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be **received** no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

***HACP Policy:***

The HACP will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over-leased) [Notice PIH 2016-09].

### *Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]*

**Annual Reexamination.** The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

***HACP Policy:***

The HACP will send a copy of the updated HUD-50058 by regular mail no later than ***10 business days*** after the effective date of the reexamination.

**Change in Billing Amount.** The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

### *Late Payments [Notice PIH 2016-09]*

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

### *Overpayments [Notice PIH 2016-09]*

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2016-09.

### *Denial or Termination of Assistance*

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than ***10 business days*** following the effective date of the termination of the billing arrangement [HUD-52665; Notice PIH 2016-09].

> ***HACP Policy:***
>
> If the HACP elects to deny or terminate assistance for a portable family, the HACP will notify the initial PHA within ***10 business days*** after the informal review or hearing if the denial or termination is upheld. The HACP will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

### Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2016-09].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement [Notice PIH 2016-09].

> ***HACP Policy:***
>
> If the HACP decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HACP will notify the initial PHA

by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the HACP decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice, but no later than ***10 business days*** following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR 982.355(e)(4)].

# Chapter 11

# REEXAMINATIONS

## INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

> Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.
>
> Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.
>
> Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

## PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

### 11-I.A. OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

### 11-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of

the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

***HACP Policy:***

The *HACP* will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. Fixed income sources are incomes with at least 90 % of the income coming from the fixed income source. The *HACP* will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the *HACP* will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the *HACP* will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually when the percentage of family income received from fixed sources is less than 90%.

## 11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

***HACP Policy:***

The *HACP* will begin the annual reexamination process ***120 days*** in advance of its scheduled effective date. Generally, the *HACP* will schedule annual reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the *HACP* may perform a new annual reexamination.

The *HACP* also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

**Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

***HACP Policy:***

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the *HACP* to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the *HACP* in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the *HACP* will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without *HACP* approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the *HACP* must execute a certification attesting to the role and the assistance provided by any such third party.

## 11-I.D. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)]

***HACP Policy:***

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a *HACP*- designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within ***10 business days*** of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

***HACP Policy:***

At the annual reexamination, the *HACP* will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The *HACP* may use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant or an alternative vendor (*Tenant Reports*) that provides this information.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity

- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

## 11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents or is considered a *vulnerable youth* in accordance with HACP policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

***HACP Policy:***

During the annual reexamination process, the *HACP* will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents or is considered a *vulnerable youth* based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or

the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the *HACP* will process a reexamination in accordance with the policies in this chapter.

## 11-I.F. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

***HACP Policy:***

In general, an ***increase*** in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the *HACP* chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the *HACP* but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, ***increases*** will be applied retroactively in the family share of the rent, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a ***decrease*** in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the ***decrease*** will take effect on the effective date of the new lease and HAP contract.

If the *HACP* chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the *HACP*.

If the family causes a delay in processing the annual reexamination, **d*ecreases*** in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the *HACP* by the date specified, and this delay prevents the *HACP* from completing the reexamination as scheduled.

## PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

### 11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

### 11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

***HACP Policy:***

The *HACP* will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

**New Family Members Not Requiring PHA Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

***HACP Policy:***
The family must inform the *HACP* of the birth, adoption, or court-awarded custody of a child within ***10 business days***.

**New Family and Household Members Requiring Approval**
With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination [24 CFR 982.516(e)(2)].
If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

***HACP Policy:***
Families must request *HACP* approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 15 consecutive days or 45 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the *HACP* prior to the individual moving into the unit.

HACP will not increase the subsidy size (number of bedrooms) when adding additional family member(s) to an existing tenancy. This does not include adults by marriage, children by birth, adoption or legal guardianship. The family is required to sign a Waiver of Voucher Size Standards declaring that they understand that if they move from the assisted unit, the voucher size will remain the same size as it was prior to the addition of the new family member(s).

The *HACP* will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

In circumstances of ***adding previous household members***, the family ***will not*** be permitted to add additional family units to the voucher unless the adult member had been ***previously listed on the HUD 50058 in the last three years*** or is the spouse or co- head of the head of household and is eligible.

The *HACP* will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards. If the *HACP* determines an individual meets the PHA's eligibility criteria and documentation requirements, the *HACP* will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the *HACP* determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the *HACP* will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The *HACP* will make its determination within ***10 business days*** of receiving all information required to verify the individual's eligibility.

**Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

***HACP Policy:***

If a household member ceases to reside in the unit, the family must inform the *HACP* within ***10 business days***. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult no longer resides in the unit, the family must inform the *HACP* within ***10 business days***.

## 11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

### PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

***HACP Policy:***

The *HACP* will conduct interim reexaminations in each of the following instances:

- **EID**: For families receiving the Earned Income Disallowance (EID), the *HACP* will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.
- **Zero-Income Families:** If the family has reported zero income, the *HACP* will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.
- If a family member reports a zero income, while other family members continue to receive income, HACP will conduct an Interim reexamination to reduce the family's rent portion for the first of the month following the reported reduction in income. Once that family member begins to receive income, they must report it within 14 days and HACP will conduct a follow-up Interim reexamination to adjust the tenant rent portion to begin at least 30 days from the reported increase in income. This is to be distinguished from a reduction in income for a family member or household whereby HACP will adjust the household's rent portion for the first of the following month but will not re-adjust the rent portion when the household's income increases again until the family's Annual reexamination. The family is still required to report the increase in income as indicated in this chapter.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g., seasonal or cyclic income), the *HACP* will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant

declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the *HACP* will conduct an interim reexamination.

The *HACP* may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

**Family-Initiated Interim Reexaminations**
The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

***Required Reporting***
HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

> ***HACP Policy:***
> Families are required to report all increases in earned income, including new employment, within ***10 business days*** of the date the change takes effect.
>
> The *HACP* will also conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase.
>
> In all other cases, the *HACP* will conduct an interim reexamination.
>
> All Families are required to report any other changes in income or expenses.

***Optional Reporting***
The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

> ***HACP Policy:***
> If a family reports a change that will last for at least 30 calendar days that it was not required to report and that would result in a decrease in the family share of rent, HACCC will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Families may report changes in income or expenses at any time.

## 11-II.D. PROCESSING THE INTERIM REEXAMINATION

### Method of Reporting

***HACP Policy:***

The family may notify the *HACP* of changes either orally or in writing. If the family provides oral notice, the *HACP* may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the *HACP* determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the *HACP* will determine the documentation the family will be required to submit. The family must submit any required information or documents within ***10 business days*** of receiving a request from the *HACP*. This time frame may be extended for good cause with *HACP* approval. The *HACP* will accept required documentation by mail, by fax, or in person.

### Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

***HACP Policy:***

If the family share of the rent is to ***increase*****:**

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to ***decrease***:

The decrease will be effective on the first day of the month following the month in which the change was reported with all required documentation submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

## PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

### 11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### 11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.
Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.
When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
    - If the payment standard amount has i*ncreased,* the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
    - If the payment standard amount has *decreased*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

**Subsidy Standards [24 CFR 982.505(c)(4)]**
If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

**Utility Allowances [24 CFR 982.517(d)]**
The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

> ***HACP Policy:***
> Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

**11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**
The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

***HACP Policy:***

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

## 11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discover

# Chapter 12

## TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

# PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

## 12-I.A. OVERVIEW

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

## 12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

***HACP Policy:***

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the *HACP* of the change and request an interim reexamination before the expiration of the ***180-day*** period.

## 12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

***HACP Policy:***

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable. Before terminating the family's assistance, the *HACP* will follow the notice requirements in Section 12-II.F.

## 12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

**Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]**

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

***HACP Policy:***

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the *HACP* will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision, the *HACP* will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such factors, the *HACP* may, on a case-by-case basis, choose not to terminate assistance.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

**Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

**Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

**Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2012-10]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.
However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

***HACP Policy:***
The *HACP* will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

**Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**
The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

**Lifetime Registered Sex Offenders [Notice PIH 2012-28]**
Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

**Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]**
If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing

with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

**Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]**

The PHA must immediately terminate program assistance for deceased single member households.

## 12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

**Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

***Use of Illegal Drugs and Alcohol Abuse***

> ***HACP Policy:***
> The *HACP* will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The *HACP* will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

*Currently engaged in* is defined as any use of illegal drugs during the previous six months.

The *HACP* will consider all credible evidence, including but not limited to, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the *HACP* will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the *HACP* may, on a case-by-case basis, choose not to terminate assistance.

***Drug-Related and Violent Criminal Activity [24 CFR 5.100]***

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

***Drug-related criminal activity*** is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

***Violent criminal*** *activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

***HACP Policy:***

The *HACP* will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The *HACP* will consider all credible evidence, including but not limited to, or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.
In making its decision to terminate assistance, the *HACP* will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the *HACP* may, on a case-by-case basis, choose not to terminate assistance.

**Other Authorized Reasons for Termination of Assistance**
**[24 CFR 982.552(c), 24 CFR 5.2005(c)]**

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence against Women Act of 2013 explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, or stalking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per the alternative requirements listed in the *Federal Register* notice dated December 29, 2014, PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation [FR Notice 12/29/14].

***HACP Policy:***
The *HACP* **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related *HACP* policies.
- Any family member has been evicted from federally-assisted housing in the last five years.
- Any *HACP* has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with Section 8 or public housing assistance under the 1937 Act.

- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the PHA.
- A family member has engaged in or threatened violent or abusive behavior toward ***HACP personnel***.

> ***Abusive or violent behavior towards HACP personnel*** **includes verbal as well as physical abuse or violence.** Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
>
> ***Threatening*** refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the *HACP* will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the *HACP* may, on a case-by-case basis, choose not to terminate assistance.

### *Family Absence from the Unit [24 CFR 982.312]*

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

> ***HACP Policy:***
> If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

### *Insufficient Funding [24 CFR 982.454]*

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

***HACP Policy:***

The *HACP* will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the *HACP* determines there is a shortage of funding, prior to terminating any HAP contracts, the *HACP* will determine if any other actions can be taken to reduce program costs.

In the event that the *HACP* decides to stop issuing vouchers as a result of a funding shortfall, and the *HACP* is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when the *HACP* resumes issuing vouchers, the *HACP* will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the *HACP* will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the *HACP* will inform the local HUD field office. The *HACP* will terminate the minimum number needed in order to reduce HAP costs to a level within the *HACP's* annual budget authority.

If the *HACP* must terminate HAP contracts due to insufficient funding, the *HACP* will do so in accordance with the following criteria and instructions:

HACP will terminate assistance beginning with families that have been on the Section 8 program the longest, with the exception that contracts for elderly and disabled families will not be cancelled unless there are no non-elderly disabled families on HACP's HCV program. Families who lose their assistance due to funding cuts will be placed back on the wait list with a preference. Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.

# PART II: APPROACH TO TERMINATION OF ASSISTANCE

## 12-II.A. OVERVIEW

The PHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate assistance.

## 12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

## 12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

### Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

***HACP Policy:***

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon *HACP* request.

### Repayment of Family Debts

***HACP Policy:***

If a family owes amounts to the *HACP*, as a condition of continued assistance, the *HACP* will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the *HACP* of the amount owed. See Chapter 16 for policies on repayment agreements.

## 12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

### Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

***HACP Policy:***

The *HACP* will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

### Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

**The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.**

***HACP Policy:***

The *HACP* will consider the following facts and circumstances when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future While a record of arrest(s) will not be used as the basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the *HACP* may obtain

the police report associated with the arrest and consider the reported circumstances of the arrest. The *HACP* may also consider:

- Any statements made by witnesses or the participant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The *HACP* will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

**Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

***HACP Policy:***

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the *HACP* will determine whether the behavior is related to the disability. If so, upon the family's request, the *HACP* will determine whether alternative measures are appropriate as a reasonable accommodation. The *HACP* will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

## 12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

### VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

**First**, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4)].

**Second**, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

**Third**, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

**Fourth,** it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

### Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence,

sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

***HACP Policy:***

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the *HACP* will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within an immediate time frame
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy

to prevent the perpetrator from acting on the threat

If the participant wishes to contest the *HACP's* determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

**Documentation of Abuse [24 CFR 5.2007]**

***HACP Policy:***
When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault or stalking claims protection under VAWA, the *HACP* will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The *HACP* reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the *HACP* will document the waiver in the individual's file.

**Terminating the Assistance of a Domestic Violence Perpetrator**
Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA

will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

***HACP Policy:***

The *HACP* will terminate assistance to a family member if the *HACP* determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, the *HACP* will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the *HACP* by the victim in accordance with this section and section 16-IX.D. The *HACP* will also consider the factors in section 12-II.D. Upon such consideration, the *HACP* may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the *HACP* does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

**12-II.F. TERMINATION NOTICE**

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

***HACP Policy:***

Whenever a family's assistance will be terminated, the *HACP* will send a written notice of termination to the family and to the owner. The *HACP* will also send a form HUD-5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other *HACP* policies, or the circumstances surrounding the termination require.

When the *HACP* notifies an owner that a family's assistance will be terminated, the *HACP* will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the *HACP* sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA 2013 expands notification requirements to require PHAs to provide notice of VAWA rights and the HUD 5382 form when a PHA terminates a household's housing benefits.

***HACP Policy:***
Whenever the *HACP* decides to terminate a family's assistance because of the family's action or failure to act, the *HACP* will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The *HACP* will request in writing that a family member wishing to claim protection under VAWA notify the *HACP* within 14 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the HACP must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

# PART III: TERMINATION OF TENANCY BY THE OWNER

## 12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

## 12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

### Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

### Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

### Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*—meaning any member of the household, a guest, or another person under the tenant's control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E). The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

***Evidence of Criminal Activity***

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

**Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent)

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

## 12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

***HACP Policy:***

If the eviction action is finalized in court, the owner must provide the *HACP* with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

## 12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action,
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy,
- The extent of participation by the leaseholder in the offending action,
- The effect of termination of tenancy on household members not involved in the offending activity,
- The demand for assisted housing by families who will adhere to lease responsibilities,
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action,
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner’s decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

### 12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY’S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

## EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

  ***HACP Policy:***

  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

  ***HACP Policy:***

  The *HACP* will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict.

  *Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].
- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

***HACP Policy:***

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the *HACP* at the same time the owner is notified.

- The family must promptly give the *HACP* a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence. The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

***HACP Policy:***

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The *HACP* will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the *HACP* in writing if any family member no longer lives in the unit.
- If the *HACP* has given approval, a foster child or a live-in aide may reside in the unit. The *HACP* has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when *HACP* consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

***HACP Policy:***

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

***HACP Policy:***

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must

be provided to the *HACP* at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

# Chapter 13

# OWNERS

## INTRODUCTION

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.
The chapter is organized in two parts:

> Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.
>
> Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the HACP and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

# PART I. OWNERS IN THE HCV PROGRAM

## 13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

### Recruitment

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

***HACP Policy:***

The HACP will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The HACP will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings at least once a year
- Participating in community-based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness and adapted accordingly.

### Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

***HACP Policy:***

All HACP activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The HACP will provide owners with a handbook that explains the program, including HUD and HACP policies and procedures, in easy-to-understand language.

The HACP will give special attention to helping new owners succeed through activities such as:

Providing the owner with a designated HACP contact person.

Coordinating inspection and leasing activities between the PHA, the owner, and the family.

Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD housing quality standards.

Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

## 13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the PHA to assist families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

***HACP* Policy:**

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HACP. The HACP will direct applicants to the City of Pittsburg website with a listing of such owners and provide instructions to this link to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The HACP has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the HACP, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy. The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The HACP will inspect the owner's dwelling unit at least annually to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards and policies for HQS inspections at initial lease-up and throughout the family's tenancy.

The HACP must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the HACP must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. ***The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease.*** See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The HACP and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

## 13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1))

## 13-I.D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an

assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

**Owners Barred from Participation [24 CFR 982.306(a) and (b)]**
The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

**Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]**
The HACP ***must not*** approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The HACP may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

**Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]**
The HACP must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner)
- Any employee of the HACP, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The HACP must submit a waiver request to the appropriate HUD Field Office for determination.
Any waiver request submitted by the HACP must include the following [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case,

- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived,
- Analysis and statement of consistency with state and local laws. The local HUD office, the HACP, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained,
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted,
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied,
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives,
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program,
- If the case involves employment of a family member by the HACP or assistance under the HCV program for an eligible HACP employee, explanation of the responsibilities and duties of the position, including any related to the HCV program,
- If the case involves an investment on the part of a member, officer, or employee of the HACP, description of the nature of the investment, including disclosure/divestiture plans.

Where the HACP has requested a conflict of interest waiver, the HACP may not execute the HAP contract until HUD has made a decision on the waiver request.

***HACP Policy:***

In considering whether to request a conflict of interest waiver from HUD, the HACP will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to the family, the individual circumstances of a particular family, the specific duties of the individual(s) whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

**Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

HUD regulations permit the HACP to disapprove a request for tenancy for various actions and inactions of the owner.

If the HACP disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

***HACP Policy:***

The HACP will refuse to approve a request for tenancy if the HACP becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f),
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program,
- The owner has engaged in any drug-related criminal activity or any violent criminal activity,
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program,
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, employees of the PHA, or of owner employees or other persons engaged in management of the rental unit; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) involves drug-related criminal activity or violent criminal activity;

- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessments.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to

lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the PHA may, on a case-by-case basis, choose to approve an owner.

**Legal Ownership of Unit**

The following represents HACP policy on legal ownership of a dwelling unit to be assisted under the HCV program.

***HACP Policy:***

The HACP will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year, management agreement).

**13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the HACP.

The owner must cooperate with the HACP and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the HACP.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

# PART II. HAP CONTRACTS

## 13-II.A. OVERVIEW

The HAP contract represents a written agreement between the HACP and the owner of the dwelling unit occupied by a HCV assisted family. The contract states the owner's responsibilities under the program, as well as the HACP's obligations. Under the HAP contract, the HACP agrees to make housing assistance payments to the owner on behalf of the family approved by the HACP to occupy the unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See chapter 15 for a discussion of any special housing types included in the HACP's HCV program.

When the HACP has determined that the unit meets program requirements and the tenancy is approvable, the HACP and owner must execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

## 13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.
The HAP contract contains three parts.

**Part A** of the contract includes basic contract information: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the HACP representative and owner [HCV Guidebook, pp. 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. HACP policy on the amount of security deposit an owner may collect is found in Chapter 9.
PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the HACP is deemed received by the owner (e.g., upon mailing by the HACP or actual receipt by the owner).

***HACP Policy:***

The HACP has not adopted a policy that defines when the housing assistance payment by the HACP is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

**Part B** is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third-Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

**Part C** of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the HACP. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease

## 13-II.C. HAP CONTRACT PAYMENTS

### General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the HACP must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month. The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP contract. The HACP must notify the owner and the family in writing of any

changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the HACP is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the HACP is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the HACP, the excess amount must be returned immediately. If the HACP determines that the owner is not entitled to all or a portion of the HAP, the HACP may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

**Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the HACP, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

**Late HAP Payments [24 CFR 982.451(a)(5)]**

The HACP is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if the HACP fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The HACP is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the HACP's control. In addition, late payment penalties are not required if the HACP intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

**Termination of HAP Payments [24 CFR 982.311(b)]**

The HACP must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the HACP must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

> ***HACP Policy:***
>
> The owner must inform the HACP when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.
>
> The owner must inform the HACP when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide the HACP with a copy of such judgment or determination.
>
> After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the HACP will continue to make HAP payments to the owner until the family actually moves from the unit or until

the family is physically evicted from the unit, whichever is earlier. The owner must inform the HACP of the date when the family actually moves from the unit or the family is physically evicted from the unit.

## 13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the HACP determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.
The HACP rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The HACP may also obtain additional relief by judicial order or action.

The HACP must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The HACP must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

***HACP Policy:***

Before the HACP exercises a remedy against an owner, the HACP will evaluate all information and documents available to determine if the contract has been breached. If relevant, the HACP will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the HACP will

consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

## 13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease,
- The lease expires,
- The HACP terminates the HAP contract,
- The HACP terminates assistance for the family,
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the HACP made the last housing assistance payment to the owner,
- The family is absent from the unit for longer than the maximum period permitted by the HACP,
- The Annual Contributions Contract (ACC) between the HACP and HUD expires
- The HACP elects to terminate the HAP contract.

***HACP* Policy:**

The HACP may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454],

- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8,
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8,

- The family breaks up [HUD Form 52641] – see chapter 3,
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the HACP terminates the HAP contract, the HACP must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

***HACP Policy:***

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACP gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period and must return to the HACP any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p.11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

### 13-II.F. CHANGE IN OWNERSHIP/ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the HACP.

An owner under a HAP contract must notify the HACP in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the HACP.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the HACP finds acceptable. The new owner must provide the HACP with a copy of the executed agreement.

***HACP Policy:***

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The HACP must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the HACP will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the HACP that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed,
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner,
- The effective date of the HAP contract assignment,
- A written agreement to comply with the terms of the HAP contract; and
- A certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the HACP will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the HACP will process the leasing in accordance with the policies in Chapter 9.

# Chapter 14

# PROGRAM INTEGRITY

## INTRODUCTION

The HACP is committed to ensuring that subsidy funds made available to the HACP are spent in accordance with HUD requirements.

This chapter covers HUD and HACP policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents HACP policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the HACP must and may take when errors or program abuses are found.

## PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

### 14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

***HACP Policy:***

To ensure that the PHA’s HCV program is administered according to the highest ethical and legal standards, the HACP will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The HACP will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The HACP will provide each applicant and participant with a copy of “Is Fraud Worth It?” (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

he HACP will provide each applicant and participant with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, the HACP will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The HACP will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key HACP forms and form letters that request information from a family or owner.

HACP staff will be required to review and explain the contents of all HUD and PHA-required forms prior to requesting family member signatures.

At every regular reexamination, HACP staff will explain any changes in HUD regulations or HACP policy that affect program participants.

The HACP will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The HACP will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

The HACP will provide each HACP employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

## 14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

### Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985].

(See Chapter 16 for additional information about SEMAP requirements).

***HACP Policy:***

In addition to the SEMAP quality control requirements, the HACP will employ a variety of methods to detect errors and program abuse.

The HACP routinely will use HUD and other non-HUD sources of up-front income verification. This includes "The Work Number" and any other private or public databases available to the HACP.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The HACP will compare family-reported income and expenditures to detect possible unreported income.

### Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

***HACP Policy:***

The HACP will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HACP's error detection and abuse prevention efforts.

### Individual Reporting of Possible Errors and Program Abuse

***HACP Policy:***

The HACP will encourage staff, program participants, and the public to report possible program abuse.

## 14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

### When the PHA Will Investigate

***HACP Policy:***

The HACP will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the HACP to

investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The HACP will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

### Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

### Analysis and Findings

***HACP Policy:***

The HACP will base its evaluation on a preponderance of the evidence collected during its investigation.

**Preponderance of the evidence** is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole, shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the HACP will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, and (3) what corrective measures or penalties will be assessed.

### Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

***HACP Policy:***

In the case of family-caused errors or program abuse, the HACP will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the HACP will take

into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

## Notice and Appeals

***HACP Policy:***

The HACP will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the HACP determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

# PART II: CORRECTIVE MEASURES AND PENALTIES

## 14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

### Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

***HACP Policy:***

Increases in the family share will be implemented on the first of the month following a written 30-day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

### Reimbursement

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

## 14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

### Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

***HACP Policy:***

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The HACP may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the HACP will terminate the family's assistance in accordance with the policies in Chapter 12.

**PHA Reimbursement to Family [HCV GB p. 22-12]**

***HACP Policy:***

The HACP will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

**Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

***HACP Policy:***

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the HACP for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the Governing Board of the HACP, employees, contractors, or other HACP representatives

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the HACP on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The HACP may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

**Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.

- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

## 14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

### Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

***HACP Policy:***

In cases where the owner has received excess subsidy, the HACP will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

### Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

***HACP Policy:***

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the HACP
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the Governing Board of the Housing Authority, employees, contractors, or other HACP representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the HACP
- Residing in the unit with an assisted family

**Remedies and Penalties**

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

## 14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

### Repayment to the PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].

### PHA Reimbursement to Family or Owner

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].

### Prohibited Activities

***HACP Policy:***

Any of the following will be considered evidence of program abuse by HACP staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict-of-interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the HACP
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of HACP activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

## 14-II.E. CRIMINAL PROSECUTION

**HACP Policy:**

When the HACP determines that program abuse by an owner, family, or HACP staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the HACP will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

## 14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. Section 24 CFR 792.202 permits the PHA to retain the greater of:

- fifty percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

# Chapter 15

# SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

## INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

***HACP Policy:***

In most instances, families *may not be permitted* ***to use any special housing types,*** unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy, congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

## PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

## 15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

## 15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the PHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

## 15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- Access: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- Fire Safety: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.
- Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605].
- Sanitary Facilities: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the

SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

- Space and Security: An SRO unit must contain at least 110 square feet of floor space, and at least four (4) square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

  Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

## PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

### 15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living a rea for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

### 15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

### 15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

> Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.
>
> The housing quality standards applicable to lead-based paint do not apply.

## PART III: GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

### 15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP

contract is executed for each assisted family, and the standard form of the HAP contract is used.

## 15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero- or one-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the group home size. The pro-rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the pro-rata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro-rata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

## 15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- Sanitary Facilities: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- Food Preparation and Service: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.

- Space and Security: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- Structure and Material: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- Site and Neighborhood: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups
  - Sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Vermin or rodent infestation, and
  - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

## PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618]

### 15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or other residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

## 15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the shared housing unit size.

The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the lower of the utility allowance for the family unit size (voucher size) or the pro-rata share of the utility allowance for the shared housing unit.

**Example:** A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals $200

The utility allowance for a 2-bedroom unit equals $100

The pro-rata share of the utility allowance is $150 (3/4 of $200)

The PHA will use the 2-bedroom utility allowance of $100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA should consider

whether sanitary and food preparation areas are private or shared.

### 15-IV.C. HOUSING QUALITY STANDARDS

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- Facilities Available for the Family: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- Space and Security: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family

  must not be less than the family unit size. A zero-bedroom or one-bedroom unit may not be used for shared housing.

## PART V: COOPERATIVE HOUSING

[24 CFR 982.619]

### 15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

### 15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard

minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

### 15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

## PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; FR Notice 1/18/17]

### 15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

### 15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOMEOWNERS WHO LEASE A SPACE

#### Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

#### Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

### 15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP

## CALCULATION [FR Notice 1/18/17]

### Payment Standards

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

### Utility Allowance

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

### Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space,
- Owner maintenance and management charges for the space,
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid unities.

### Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly

amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

**Housing Assistance Payment**

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

**Rent Reasonableness**

Initially, and annually thereafter the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

## 15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

***Manufactured Home Tie-Down***

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

# PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

## 15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance described in the regulations:

monthly homeownership assistance payments and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

The PHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

## 15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.

  The family must qualify as a first-time homeowner or may be a cooperative member.

  ***HACP Policy:***

  A first-time home buyer means that no member of the household has had any interest or ownership in any residence during the three years before applying for homeownership assistance or at the commencement of participation in the homeownership program. The purchaser must sign a sworn application attesting that they have not owned a home. In addition, the last three years tax returns may be required to ascertain that no mortgage interest or real estate tax deductions have been claimed. Single parents or displaced homemakers who owned a home while married or resided in a home owned by a spouse also qualify as first- time homebuyers.

  The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2,000, based on the income of adult family members who will

own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.

***HACP Policy:***

Calculation of income-eligibility for the HCV Homeownership Program for the purpose of determining income-eligibility for admission to the program will be conducted under the guidelines for HCV rental assistance as noted in this Administrative Plan.

a) The head of household, spouse or other adult member(s) of the household that will hold title to the home must have a combined annual gross income of not less than $10,300 or 30% of the Median Family Income adjusted for the family size and must not exceed 80% of the Median Family Income as determined by HUD.

b) A family that does not meet this requirement, but does meet all other HOME OWNERSHIP PROGRAM requirements, may request a waiver provided the family can demonstrate that:

- Head of household, spouse or other adult member(s) of the household that will hold title to the home have a combined annual gross income of not less than the California State minimum wage multiplied by 2,000 and,
- Family is able to secure a mortgage and the total housing cost to the family will not exceed thirty five percent (35%) of the family's total gross monthly income

c) Welfare assistance may not be included in the minimum gross annual income above, except for elderly or disabled families. Welfare assistance includes payments from Temporary assistance for Needy Families (TANF), Supplementary Security Income (SSI) that is subject to an income eligibility test, food stamps, general assistance (GA); or other welfare assistance as specified by HUD.

- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.

- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.

***HACP Policy:***

The HACP has the following guidelines for a family to be eligible:

a) One or more adult members of the household that will hold title to the home must be currently employed and working not less than average of 30 hours of per week and has been continuously employed for one (1) year prior to application to the Home Ownership Program.

b) Employment requirements do not apply to elderly or disabled families that otherwise qualify for Home Ownership Program.

c) A family with a member with disabilities may request an exemption from the work requirements if needed as a reasonable accommodation for the disabled family member.

d) The HACP may also consider whether and to what extent an employment interruption is considered permissible in satisfying the employment requirement. The HACP may also consider successive employment during the one-year period and self- employment in a business.

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option

- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

***HACP Policy:***

The HACP has the following additional guidelines for a family to be eligible:

1. **Minimum down payment requirement**

Each participating family must demonstrate the ability to provide the minimum down payment requirement. Funds that are required cannot come from any outside source; they must come directly from the borrower.

a) At least one percent (1%) of the purchase price must come from the family personal resources.

2. **Other requirements**

a) The family must have completed an initial HCV lease term and completed the family's first annual certification in the HCV Program. The family must terminate a current lease agreement in compliance with the lease when transitioning into homeownership.

b) The family must verify that no family member has previously defaulted on a mortgage assisted under the HCV Home Ownership Program.

The head of household and any other adult members that will hold title to the home must successfully complete a counseling program that has been deemed acceptable by the HACP. The HACP may require ongoing counseling for participants in the program. Family members may not owe any debt to the HACP or another HACP.

a) The family must maintain a good tenant standing with its landlord and the HACP. This includes, but is not limited to:

- In compliance with HUD Family Obligations under the HCV Program

- Adhering to the requirements of the lease agreement
- No outstanding debts to the landlord or to any utility company,
- Report all household income
- Passing the most recent Uniform Physical Condition Standards for Vouchers (UPCS-V) inspection with no significant tenant caused failure items.

## 15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

## 15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit,
  - A unit receiving Section 8 project-based assistance,
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services,
  - A college or other school dormitory,
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).

- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

  ***HACP Policy:***

  The following unit types may be purchased using the HCV Home Ownership Program

  - A one-unit property (single family residence)
  - A single dwelling unit in a cooperative, condominium or planned use development.
  - A manufactured home with a permanent foundation if the family has the right to occupy the same site for a period of at least forty (40) years.
  - The unit must be seller occupied or vacant for at least ninety (90) days; an exception is where the tenants are purchasing the unit in which they have been residing.

For PHA-owned units all of the following conditions must be satisfied:

- The PHA informs the family, both verbally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering,
- The unit is not ineligible housing,
- The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

## 15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

## 15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds),
- Budgeting and money management,
- Credit counseling,
- How to negotiate the purchase price of a home,
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing,
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction,
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas,
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

***HACP Policy:***

The HACP may require the family to attend post-purchase counseling one year after the close of escrow and at any time during the term of the homeownership assistance. Counseling topics may include:

- Financial Planning

- Housing Keeping
- Property Maintenance
- Budgeting

## 15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]

### Home Inspections

The PHA may not commence monthly homeownership assistance payments for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

### Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser,
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser,
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser,
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

### Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

## 15-VII.H. FINANCING [24 CFR 982.632]

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

***HACP Policy:***

The family must execute documentation giving the HACP or its designee, the first right of refusal in the event the family decided to sell the home. This document will be in effect during the term of the HAP. The HACP will require the family to include the HACP as additional insured on the homeowner's insurance policy.

## 15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).

- The family must supply information to the HACP or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

**15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]**

The time limits below apply to all family members having an ownership interest in the unit during the time that homeownership payments are made; and, the spouse of any member of the household who has an ownership interest in the unit during the time that homeownership payment are made. All families, including families that become elderly during the term of the homeownership assistance are subject to the following maximum terms:

• Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or

• Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

• Has an ownership interest in the unit during the time that homeownership payments are made; or

• Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

***The maximum term of assistance does not apply to elderly or disabled families.**

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a

disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.
If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance). If the family has received such assistance for different homes, or from different HACPs, the total of such assistance terms is subject to the maximum term described in this part.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are being made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

## 15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of:

- the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most

recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home,
- Real estate taxes and public assessments on the home,
- Home insurance,
- The PHA allowance for maintenance expenses,
- The PHA allowance for costs of major repairs and replacements,
- The PHA utility allowance for the home,
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person,
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home,
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt,
- Home insurance,
- The PHA allowance for maintenance expenses,
- The PHA allowance for costs of major repairs and replacements,
- The PHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.
-

**15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]**

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

***HACP Policy:***

Families issued a homeownership voucher may exercise portability to purchase a unit in another jurisdiction provided the receiving jurisdiction operates a similar

homeownership program for which the applicant qualifies and for which the

receiving PHA is accepting new homeownership families.

1. **Incoming portable families**

   a) May purchase a unit within the jurisdiction of the HACP provided the HACP is accepting new homeownership families at the time of the purchase.

   b) Must be under rental assistance in the City of Pittsburg for 12 months prior to application for HCV Homeownership.

   c) Must meet the education, counseling, and all other Home Ownership Program requirements of the HACP.

   d) Must be certified by the initial HACP that the family is in good standing with that PHA and Landlord.

The HACP must promptly notify the initial PHA if the Family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the Initiating HACP.

2. **<u>Outgoing portable families</u>**

   a) May purchase a unit within the receiving jurisdiction, provided they are accepting new homeownership families at the time of the purchase.

   b) Must meet the education, counseling, and all other HOME OWNERSHIP PROGRAM requirements of the receiving HACP.

   c) Must be certified by HACP that the family is in good standing with the Initiating HACP and Landlord.

   d) The HACP must promptly notify the PHA, if the Family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the HA.

## 15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-

based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

***HACP Policy:***

A family receiving HACP homeownership assistance may purchase and move to a new unit with continued Voucher assistance.

**1. Purchase of a new unit**

A family receiving homeownership assistance may purchase and move to a new unit with continued assistance, provided that the family fulfills all requirements of the Home Ownership Program at the time of the purchase of the new unit.

The following applies to a family purchasing a new unit under the Home Ownership Program.

The family may not be eligible to move with continued assistance for a period of five (5) years after the initial purchase.

The HACP may, at its discretion, require the family to complete a new housing counseling program or receive additional counseling prior to close of escrow.

The requirement that the family must be a first-time homebuyer is not applicable.

The HACP may deny permission to move with continued assistance in the case of lack of funding or if the HACP has denied or terminated assistance

to the family under section 8 below.

**2. Sale of original Home Ownership Program unit and return to tenant- based rental assistance**

The HACP may, at its discretion, allow a family to return to tenant- based rental assistance. The following applies to a family returning to tenant-based assistance:

The HACP may deny permission to move with continued assistance in the case of lack of funding or if the HACP has denied or terminated assistance to the family.

The HACP will not commence continued tenant-based assistance for occupancy of a rental unit so long as any family member owns any title or other interest in the home previously assisted through the Home Ownership Program. In addition, eighteen **(18)** months must have passed since the family's receipt of homeownership assistance.

## 15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

***HACP Policy:***

The HACP may deny or terminate homeownership assistance for the family in accordance with the requirements of this section.

- Failure to report all household income

- Failure to comply with the City of Pittsburg's HCV Homeownership Program requirements
- Failure to comply with any HUD Family Obligations
- The family defaults on the mortgage.

The HACP will not recapture any Homeownership Voucher payments unless there was an act of fraud or misrepresentation of material facts in order to obtain a benefit. The HCV HOME OWNERSHIP PROGRAM recapture provision does not apply to any other program funds that may be used in the transaction.

The HACP shall have the discretion to waive or modify any provision of the HCV Home Ownership Program Policy not governed by statute or regulation for good cause or to comply with changes in HUD regulations or directives.

# Chapter 16

# PROGRAM ADMINISTRATION

## INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

## PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for "other housing purposes permitted by state and local law," in accordance with 24 CFR 982.155(b)(1).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

***HACP Policy:***

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the HACP's Board of Commissioners.

## PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

### 16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

***HACP Policy:***

Copies of the payment standard and utility allowance schedules are available for review on the City Website and in the HACP's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The HACP will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the HACP passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

### 16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may

establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

**Updating Payment Standards**
When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

***HACP Policy:***
The HACP will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" the HACP will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

- **Funding Availability**: The HACP will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The HACP will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

- **Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the HACP will consider increasing the payment standard. In evaluating rent burdens, the HACP will not include families renting a larger unit than their family unit size.

- **Quality of Units Selected**: The HACP will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are

only made when needed to reach the mid-range of the market.

- **Changes in Rent to Owner**: The HACP may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size

.

- **Unit Availability:** The HACP will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

- **Lease-up Time and Success Rate**: The HACP will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on October 1st of every year unless, based on the proposed FMRs, it appears that one or more of the HACP's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the HACPs payment standards will be effective October 1st instead of December 1st.

If the HACP has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, the HACP will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the HACP at the time the reexamination was originally processed.

**Exception Payment Standards [982.503(c)]**

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

**Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]**

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

***HACP Policy:***

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HACP must determine that:

- There is a shortage of affordable units that would be appropriate for the family,
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

**"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50$^{th}$, rather than the 40$^{th}$ percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants,
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and

- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

**Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

## 16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

**Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

> ***HACP Policy:***
> The HACP has now included an allowance for air-conditioning in its schedule.

**Reasonable Accommodation**

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

**Utility Allowance Revisions**

The PHA must review its schedule of utility allowances each year and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.
The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

# PART III: INFORMAL REVIEWS AND HEARINGS

## 16-III.A. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section. The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

## 16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554] and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

### Decisions Subject to Informal Review

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS

- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

***HACP Policy:***
The HACP will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the HACP waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

**Notice to the Applicant [24 CFR 982.554(a)]**
The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

**Scheduling an Informal Review**

***HACP Policy:***
A request for an informal review must be made in writing and delivered to the HACP either in person or by first class mail, by the close of the business day, no later than ***10 business days*** from the date of the HACP's denial of assistance.

The HACP must schedule and send written notice of the informal review within ***10 business days*** of the family's request.

**Informal Review Procedures [24 CFR 982.554(b)]**
The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person. The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

**Informal Review Decision [24 CFR 982.554(b)]**
The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

***HACP Policy:***
In rendering a decision, the HACP will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

- The validity of the evidence. The HACP will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the HACP will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the HACP will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The HACP will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within ***10 business days*** of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will remain in place and the family will be so notified.

**16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

**Decisions Subject to Informal Hearing**

Circumstances for which the PHA ***must give*** a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment

- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing **is not required** are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

***HACP Policy:***
The HACP will only offer participants the opportunity for an informal hearing when required to by the regulations.

**Informal Hearing Procedures**
***Notice to the Family*** **[24 CFR 982.555(c)]**

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

***HACP Policy:***
In cases where the HACP makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the HACP.
- A brief statement of the reasons for the decision, including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the HACP's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the HACP's hearing procedures.

***Scheduling an Informal Hearing*** **[24 CFR 982.555(d)]**
When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

***HACP Policy:***
A request for an informal hearing must be made in writing and delivered to the HACP either in person or by first class mail, by the close of the business day, no later than ***10 business days*** from the date of the HACP's decision or notice to terminate assistance.

The HACP must schedule and send written notice of the informal hearing to the family within ***10 business days*** of the family's request.

The family may request to reschedule a hearing for good cause, or if it is

needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HACP may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HACP within 24 hours of the scheduled hearing date, excluding weekends and holidays. The HACP will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

***Pre-Hearing Right to Discovery*** **[24 CFR 982.555(e)]**
Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

***HACP Policy:***
The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of HACP documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

***Participant's Right to Bring Counsel*** **[24 CFR 982.555(e)(3)]**
At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Informal Hearing Officer*** **[24 CFR 982.555(e)(4)]**
Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

***HACP Policy:***
The HACP has designated the following to serve as hearing officers:

***[Retired Attorneys and Other Department Directors in the City or other Executive Staff not involved in the management or operation of the HACP]***

***Attendance at the Informal Hearing***

***HACP Policy:***
Hearings may be attended by a hearing officer and the following applicable persons:

- A HACP representative(s) and any witnesses for the HACP
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the HACP as a reasonable accommodation for a person with a disability

***Conduct at Hearings***
The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

***HACP Policy:***
The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

***Evidence*** **[24 CFR 982.555(e)(5)]**
The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

***HACP Policy:***
Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- **Oral evidence**: the testimony of witnesses

- **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the HACP. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

- **Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

- **Real evidence**: A tangible item relating directly to the case.

***Hearsay Evidence*** is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the HACP or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

### *Procedures for Rehearing or Further Hearing*

***HACP Policy:***

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the HACP will take effect and another hearing will not be granted.

### *Hearing Officer's Decision* [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

***HACP Policy:***

In rendering a decision, the hearing officer will consider the following matters:

**HACP Notice to the Family**: The hearing officer will determine if the reasons for the HACP's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the HACP and the family were given the opportunity to examine any relevant documents in accordance with HACP policy.

**HACP Evidence to Support the HACP Decision**: The evidence consists of the facts presented. Evidence is not a conclusion, and it is not an argument. The hearing officer will evaluate the facts to determine if they support the HACP's conclusion.

**Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and HACP policies. If the grounds for termination are not specified in the regulations or in compliance with HACP policies, then the decision of the HACP will be overturned.

The hearing officer will issue a written decision to the family and the HACP no later than ***10 business days*** after the hearing. The report will contain the following information:

**Hearing information:**

Name of the participant,
Date, time and place of the hearing,
Name of the hearing officer,
Name of the HACP representative; and
Name of family representative (if any).

**Background**: A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence**: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of

fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

**Order:** The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

***Issuance of Decision*** **[24 CFR 982.555(e)(6)]**
A copy of the hearing must be furnished promptly to the family.

***HACP Policy:***
The hearing officer will mail a "Notice of Hearing Decision" to the HACP and to the participant on the same day. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Hearing Decision" and a copy of the proof of mailing. A copy of the "Notice of Hearing Decision" will be maintained in the HACP's file.

***Effect of Final Decision*** **[24 CFR 982.555(f)]**
The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

***HACP Policy:***
The Executive Director has the authority to determine that the HACP is not bound by the decision of the hearing officer because the HACP was not

required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the HACP will mail a "Notice of Final Decision" to the HACP and the participant on the same day. The "Notice of Final Decision" will be sent by first-class mail. A copy of this notice will be maintained in the HACP's file.

## 16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review. Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

### Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

**USCIS Appeal Process [24 CFR 5.514(e)]**
When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

> ***HACP Policy:***
> The HACP will notify the family in writing of the results of the USCIS secondary verification within ***10 business days*** of receiving the results.
>
> The family must provide the HACP with a copy of the written request for appeal and proof of mailing within ***10 business days*** of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

> ***HACP Policy:***
> The HACP will send written notice to the family of its right to request an informal hearing within ***10 business days*** of receiving notice of the USCIS decision regarding the family's immigration status.

**Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of

denial, or within 30 days of receipt of the USCIS appeal decision.
The informal hearing procedures for applicant families are described below.

***Informal Hearing Officer***
The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

***Evidence***
The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

> ***HACP Policy:***
> The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of HACP documents no later than
> 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
The family must also be provided the opportunity to refute evidence relied upon by the HACP, and to confront and cross-examine all witnesses on whose testimony or information the HACP relies.

***Representation and Interpretive Services***
The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.
T
he family is entitled to request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

***Recording of the Hearing***
The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

***HACP Policy:***
The HACP will not provide a transcript of an audio taped hearing.

***Hearing Decision***
The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

**Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.
For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

**Retention of Documents [24 CFR 5.514(h)]**
The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

## PART IV: OWNER OR FAMILY DEBTS TO THE PHA

### 16-IV.A. OVERVIEW
PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

***HACP Policy:***
When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HACP holds the owner or participant liable to return any overpayments to the HACP.

The HACP will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the HACP, the HACP will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

## 16-IV.B. REPAYMENT POLICY

### Owner Debts to the PHA

***HACP Policy:***
Any amount due to the HACP by an owner must be repaid by the owner within 30 days of the HACP determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the HACP will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the HACP may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the HACP.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HOUSING AUTHORITY will ban the owner from future participation in the program and pursue other modes of collection.

**Family Debts to the PHA**

***HACP Policy:***
Any amount owed to the HACP by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the HACP will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

**Repayment Agreement [24 CFR 792.103]**
The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

**General Repayment Agreement Guidelines for Families**
***Down Payment Requirement***

***HACP Policy:***
Before executing a repayment agreement with a family, the HACP will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the HACP that a down payment of 10 percent would impose an undue hardship, the HACP may, in its sole discretion, require a lesser percentage or waive the requirement.

***Payment Thresholds***
Notice PIH 2017-12 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2017-12 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

***HACP Policy:***
The HACP has established the following thresholds for repayment of debts:

- Amounts between $3,000 and the federal or state threshold for criminal prosecution must be repaid within 24 months.
- Amounts between $2,000 and $2,999 must be repaid within 18 months.
- Amounts between $1,000 and $1,999 must be repaid within 12 months.
- Amounts under $1,000 must be repaid within 6 months.

If a family can provide evidence satisfactory to the HACP that the threshold applicable to the family's debt would impose an undue hardship, the HACP may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the HACP will consider all relevant information, including the following:

- The amount owed by the family to the HACP
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control
- The family's current and potential income and expenses
- The family's current family share, as calculated under 24 CFR 982.515
- The family's history of meeting its financial responsibilities

***Execution of the Agreement***

***HACP Policy:***
Any repayment agreement between the HOUSUNG AUTHORITY and a family must be signed and dated by the HOUSUNG AUTHORITY and by the head of household and spouse/cohead (if applicable).

***Due Dates***

***HACP Policy:***
All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

***Late or Missed Payments***

***HACP Policy:***
If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the HACP, the HACP may send the family a delinquency notice giving the

family ***10 business days*** to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HACP may terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the HACP may terminate assistance in accordance with the policies in Chapter 12.

***No Offer of Repayment Agreement***

***HACP Policy:***

The HACP generally may not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

**Repayment Agreements Involving Improper Payments**

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

# PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

## 16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

## 16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s

performance under each SEMAP indicator in accordance with program requirements.

**HUD Verification Method**
Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

## 16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator. A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor is not to be rated under SEMAP indicators 1-7.

| SEMAP Indicators |
|---|
| **Indicator 1: Selection from the waiting list**<br>**Maximum Score: 15**<br>• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.<br>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample. |
| **Indicator 2: Rent reasonableness**<br>**Maximum Score: 20**<br>• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units<br>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample. |

**Indicator 3: Determination of adjusted income**
**Maximum Score: 20**

- This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.
- Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.

**Indicator 4: Utility allowance schedule**
**Maximum Score: 5**

- This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.
- Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

**Indicator 5: HQS quality control inspections**
**Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

**Indicator 6: HQS enforcement**
**Maximum Score: 10**

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

**Indicator 7: Expanding housing opportunities**
**Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to

lease units or help families find units, including units outside areas of poverty or minority concentration.

- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

**Indicator 8: FMR limit and payment standards**
**Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

**Indicator 9: Annual reexaminations**
**Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

**Indicator 10: Correct tenant rent calculations**
**Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

**Indicator 11: Pre-contract HQS inspections**
**Maximum Points: 5**

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

**Indicator 12: Annual HQS inspections**
**Maximum Points: 10**

- This indicator shows whether the PHA inspects each unit under contract at least annually.

- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

**Indicator 13: Lease-up**
**Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.
- Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

**Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances**
**Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

**Success Rate of Voucher Holders**
**Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**Deconcentration Bonus Indicator**
**Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50th percentile rent, starting with the second full PHA fiscal year

following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

***HACP Policy:***

The HACP will not annually score or evaluate Indicator # 14 (Family Self Sufficiency Program) or the Deconcentration Bonus. The HACP has never been provided an award or grant to participate in the FSS Program. The Bonus indicator requires a jurisdictional area that is more diverse in income levels & size. The HACP jurisdiction is too small and lacks affordability diversity to measure deconcentration.

## PART VI: RECORD KEEPING

### 16-VI.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.
In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### 16-VI.B. RECORD RETENTION [24 CFR 982.158]

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

- A copy of the executed lease,
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants,
- An application from each ineligible family and notice that the applicant is not eligible,
- HUD-required reports,
- Unit inspection reports,

- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program,
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [24 CFR 5.2002(e)(12)].
If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

## 16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

***HACP Policy:***

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACP staff.
HACP staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.
Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

### Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV)

system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

***HACP Policy:***
Prior to utilizing HUD's EIV system, the HACP will adopt and implement EIV security procedures required by HUD.

**Criminal Records**
The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR 5.905.

**Medical/Disability Records**
PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

**Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**
16-34

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-IX.E.

## PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

### 16-VII.A. OVERVIEW

The PHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

### 16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The PHA must report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

***HACP Policy:***

The HACP will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level.

### 16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

***HACP Policy:***

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the HACP is not

providing such a report. The public health department(s) has stated they will release information solely at their discretion, the names and/or a addresses of children less than 6 years old with an elevated blood lead level to the HACP.

## PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

### 16-VIII.A. OVERVIEW

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within ***10 business days*** [24 CFR 982.354]. The requirements found in this notice are mandatory. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs; (c) the PHA can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving PHA is not absorbing the voucher. This policy applies to moves within the PHA's jurisdiction as well as to moves outside it under portability.

This following part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### 16-VIII.B. METHODOLOGY

***HACP Policy:***

The HACP will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the HACP's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the HACP will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take

into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the HACP cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HACP will be considered to have insufficient funding.

If the HACP does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within the HACP's jurisdiction. The HACP, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area. For both moves within the HACP's jurisdiction and outside under portability, the HACP will not deny a move due to insufficient funding if the HACP previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The HACP will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The HACP will create a list of families whose moves have been denied due to insufficient funding. The HACP will keep the family's request open indefinitely, and, when funds become available, the families on this list will take precedence over families on the waiting list. The HACP will use the same procedures for notifying families with open requests to move.

## PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

### 16-IX.A. OVERVIEW

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

## 16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is
- protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:

- To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

## 16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

### Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

***HACP Policy:***

The HACP will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the HACP's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or
1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

### Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

***HACP Policy:***

The HACP will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The HACP will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The HACP will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The HACP will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

***HACP Policy:***

Whenever the HACP has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the HACP may decide not to send mail regarding VAWA protections to the victim's unit if the HACP believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the HACP will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

**Notification to Owners and Managers**

While PHAs are no longer required by regulation to notify owners and managers

participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them

***HACP Policy:***
The HACP will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

**16-IX.D. DOCUMENTATION [24 CFR 5.2007]**
A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.

(2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

***HACP Policy:***

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The HACP may, in its discretion, extend the deadline for ***10 business days***. In determining whether to extend the deadline, the HACP will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the HACP will be in writing.

Once the victim provides documentation, the HACP will acknowledge receipt of the documentation within ***10 business days***.

**Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

***HACP Policy:***

If presented with conflicting certification documents from members of the same household, the HACP will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, the HACP will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the HACP does not receive third-party documentation within the required timeframe (and any extensions) the HACP will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the HACP will hold separate hearings for the applicants or tenants.

**Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**
The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

***HACP Policy:***
If the HACP accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault or stalking, the HACP will document acceptance of the statement or evidence in the individual's file.

**Failure to Provide Documentation [24 CFR 5.2007(c)]**
In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

**16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**
All information provided to the PHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

***HACP Policy:***

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the HACP will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

## EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

### [HACP of the City of Pittsburg]

### Notice of Occupancy Rights under the Violence Against Women Act[1]

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[2] The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

**Protections for Applicants**

If you otherwise qualify for assistance under the housing choice voucher program**,** you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the housing choice voucher program**,** you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a

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1 Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

2 Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

**Removing the Abuser or Perpetrator from the Household**

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA or find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow federal, state, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

**Moving to Another Unit**

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
2. **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form or may accept another written or oral request.

3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

   **OR**

   **You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PHA's emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The PHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if the PHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the

date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.

- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

**Confidentiality**

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services

on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

**Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

**Other Laws**

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

**Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[San Francisco HUD field office]**.

**For Additional Information**

You may view a copy of HUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA].**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**

## EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**1. Date the written request is received by victim:**

_____

**2. Name of victim:**

_____

___

**3. Your name (if different from victim's):**_____

**4. Name(s) of other family member(s) listed on the lease:**_____

_____

_____

**5. Residence of victim:**

**_____**

**6. Name of the accused perpetrator (if known and can be safely disclosed):_____**

**_____**

**_____**

**7. Relationship of the accused perpetrator to the victim:_____**

**8. Date(s) and times(s) of incident(s) (if known):_____**

**_____**

**_**

**10. Location of incident(s):_____**

**_____**

| |
|---|
| In your own words, briefly describe the incident(s):<br>_____<br>_____<br>_____<br>_____ |

Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____
Signed on (Date) _____

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or

stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

## EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)

Attachment: Certification form HUD-5382

**[Insert name of covered housing provider]**

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

**Housing Choice Voucher Program**

### Emergency Transfers

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),1 the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.2 The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

### Eligibility for Emergency Transfers

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1Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

2Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The HACP will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### Confidentiality

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### Emergency Transfer Timing and Availability

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### Emergency Transfers: Housing Choice Voucher (HCV) Program

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

**Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: https://www.victimsofcrime.org/our-programs/stalking-resource-center.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

**EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383**

**EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

**1. Name of victim requesting an emergency transfer:**

**_____**

**2. Your name (if different from victim's)_____**

**3. Name(s) of other family member(s) listed on the lease:_____**

_____

_____

**4. Name(s) of other family member(s) who would transfer with the victim:_____**

_____

_____

**5. Address of location from which the victim seeks to transfer:**

_____

**6. Address or phone number for contacting the victim:_____**

**7. Name of the accused perpetrator (if known and can be safely disclosed):_____**

**8. Relationship of the accused perpetrator to the victim:_____**

**9. Date(s), Time(s) and location(s) of incident(s):_____**

_____

_____

**10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____**

**11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.**

_____

_____

_____

_____

**12. If voluntarily provided, list any third-party documentation you are providing along with this notice:**

_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____
Signed on (Date) _____

## MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

**[Insert Name of Housing Provider]**

**NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS**

**UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

### Purpose

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (HACP), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through **[insert name of housing provider]** HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

### Denial of Tenancy

*Protections for applicants*: Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

### Eviction

*Protections for HCV participants*: Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

***Limitations of VAWA protections**:*

a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to "actual and imminent threat" should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

**Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD's regulation

requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:

2) Signed by the applicant or tenant; and

3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the **14 business day** period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA

Final Rule may be construed to limit the authority of the covered housing provider to:

a. Deny admission by the applicant or tenant to the housing or program,

b. Deny assistance under the covered housing program to the applicant or tenant,

c. Terminate the participation of the tenant in the covered housing program; or

d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

**Moves**

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

**Lease Bifurcation**

Owners may choose to bifurcate a lease or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be affected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

**Evictions Due to "Actual and Imminent Threat" or Violations Not Premised on Abuse**

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk,
- The nature and severity of the potential harm,
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

**Confidentiality**

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access

to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

a. Requested or consented to in writing by the individual (victim) in a time-limited release,

b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

**Service Providers**

**[insert name of housing provider]** has extensive relationships with local service providers. **[insert name of housing provider]** staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in **[insert name of housing provider]** Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

**Definitions**

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

(1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or

(2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease

requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship,

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
(1) Fear for the person’s individual safety or the safety of others; or
(2) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Attached:**
Legal services and the domestic violence resources for the Metro area
Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

**[insert name of housing provider]** VAWA Notice of Occupancy Rights

# Chapter 17

# PROJECT-BASED VOUCHERS

## INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

## PART I: GENERAL REQUIREMENTS

### 17-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

***HACP Policy:***

The HACP will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the HACP is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, the HACP is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the PHA has vouchers available for project-basing [FR Notice 1/18/17].

### Additional Project-Based Units [FR Notice 1/18/17]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit, if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).
- Are specifically made available to house families that are comprised of or include a veteran.

- ***Veteran*** **means an individual who has served in the United States Armed Forces.**

- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.
    - **For these projects, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].**

***HACP Policy:***

The HACP will not set aside units above the 20 percent program limit.

**Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]**
PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.
In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. In order to be excepted, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP or selected the project, the unit either:
    - Received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for Elderly (Section 202), Housing for Persons with Disabilities (section 811), Rent Supplement (Rent Supp), or Rental Assistance Program (RAP); or
    - Was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811)
    - Received assistance under the Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978)

Units that have previously received either PBV or HCV assistance are not covered under the exception.

***HACP Policy:***

The HACP will not project-base any of the above unit types.

## 17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

***HACP Policy:***

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACP policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

## 17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

## 17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

# PART II: PBV OWNER PROPOSALS

## 17-II.A. OVERVIEW

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

## 17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The PHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

### Units Selected Non-Competitively [FR Notice 1/18/17]

For certain public housing projects where the PHA has an ownership interest or control and will spend a minimum amount per unit on rehabilitation or construction, the PHA may select a project without following one of the two processes above.

***HACP Policy:***

The HACP may attach PBVs to projects owned by the PHA as described above.

**Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]**

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

***HACP Policy:***

PHA Request for Proposals for Rehabilitated and Newly Constructed Units

The HACP will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

- **Contra Costa Times – East Bay Edition**

In addition, the HACP will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The HACP will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HACP estimates that it will be able to assist under the funding the HACP is making available. Proposals will be due in the HACP office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the HACP by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The HACP will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP,
- Extent to which the project furthers the HACP goal of deconcentrating poverty and expanding housing and economic opportunities,
- If applicable, the extent to which services for special populations

are provided on site or in the immediate area for occupants of the property; and

- Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the HACP will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

PHA Requests for Proposals for Existing Housing Units

The HACP will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

- **Contra Costa Times – East Bay Edition**

In addition, the HACP will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The HACP will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HACP estimates that it will be able to assist under the funding the HACP is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program,
- Extent to which the project furthers the HACP goal of deconcentrating poverty and expanding housing and economic opportunities,
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

PHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The HACP will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded

Low-Income Housing Tax Credits on an ongoing basis.

The HACP may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

- **Contra Costa Times – East Bay Edition**

In addition to, or in place of advertising, the HACP may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The HACP will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the HACP goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

**PHA-Owned Units [24 CFR 983.51(e), 983.59, Notice PIH 2015-05, and FR Notice 1/18/17]**

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections. In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity. The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

***HACP Policy:***

The HACP may submit a proposal for project-based housing that is owned

or controlled by the HACP. If the proposal for HACP-owned housing is selected, the HACP will use Housing Authority of the County of Contra Costa to review the HACP selection and to administer the PBV program. The HACP will obtain HUD approval of Housing Authority of the County of Contra Costa prior to selecting the proposal for HACP-owned housing.

The HACP may only compensate the independent entity from HACP ongoing administrative fee income (including amounts credited to the administrative fee reserve). The HACP may not use other program receipts to compensate the independent entity for its services. The HACP and independent entity may not charge the family any fee for the appraisal, or the services provided by the independent entity.

**PHA Notice of Owner Selection [24 CFR 983.51(d)]**

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

***HACP Policy:***

Within ***10 business days*** of the HACP making the selection, the HACP will notify the selected owner in writing of the owner's selection for the PBV program. The HACP will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HACP will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the HACP used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The HACP will also post the notice of owner selection on its electronic web site.

The HACP will make available to any interested party its rating and ranking sheets and documents that identify the HACP basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The HACP will not make available sensitive owner

information that is privileged, such as financial statements and similar information about the owner.

The HACP will make these documents available for review at the HACP during normal business hours. The cost for reproduction of allowable documents will be $.25 per page.

## 17-II.C. HOUSING TYPE [24 CFR 983.52]

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

## 17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

### Ineligible Housing Types [24 CFR 983.53]

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

### Subsidized Housing [24 CFR 983.54]

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit,
- A unit subsidized with any other form of Section 8 assistance,
- A unit subsidized with any governmental rent subsidy,

- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing,
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities,
- Section 811 project-based supportive housing for persons with disabilities,
- Section 202 supportive housing for the elderly,
- A Section 101 rent supplement project,
- A unit subsidized with any form of tenant-based rental assistance,
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

**17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]**

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

## 17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

### 25 Percent per Project Cap [24 CFR 983.56]

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

### Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17]

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates
  - For these projects, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA may continue to use the former exemptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

#### *Supportive Services*

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. The project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible A PHA may not require participation in

the supportive service as a condition of living in the excepted unit, although such services may be offered.

***HACP Policy:***
Excepted units may be limited to units for elderly families, veterans and chronically homeless families.

**Projects not Subject to a Project Cap [FR Notice 1/18/17]**
PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance. To qualify for the exception, the unit must:

- Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP under which the project was selected or the PHA selected the project without competition, the unit met at least one of the two following conditions:
  - The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 202), Housing for Persons with disabilities (Section 811), the Rental Supplement program,
  - The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of *replacement unit* described in FR Notice 1/18/17.

***HACP Policy:***
The HACP currently does not have any PBV units that are subject to the per project cap exception.

**Promoting Partially Assisted Projects [24 CFR 983.56(c)]**
A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3]. A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also

determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 percent.

***HACP Policy:***
The HACP will not provide assistance for excepted units. Beyond that, the HACP will not impose any further cap on the number of PBV units assisted per project.

## 17-II.G. SITE SELECTION STANDARDS

### Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards
**[24 CFR 983.57(b)]**
The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.
In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

***HACP Policy:***
It is the HACP goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, the HACP will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the HACP will grant exceptions to the 20 percent standard where the HACP determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community,
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition

and HOPE VI redevelopment,

- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area,
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

**Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]**

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed,
- Have adequate utilities and streets available to service the site,
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

**New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]**

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed,
- The site must have adequate utilities and streets available to service the site,
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for

minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area,

- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons,
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate,
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

**17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]**

The HACP activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The HACP may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The HACP may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the HACP, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The HACP must supply all available, relevant information necessary for the

responsible entity to perform any required environmental review for any site. The HACP must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

## PART III: DWELLING UNITS

### 17-III.A. OVERVIEW
This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

### 17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]
The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.
The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

#### Lead-based Paint [24 CFR 983.101(c)]
The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

### 17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES
The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The HACP must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.
Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

### 17-III.D. INSPECTING UNITS

#### Pre-selection Inspection [24 CFR 983.103(a)]
The HACP must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HACP must inspect all the units before the proposal selection date and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply

with HQS on the proposal selection date. However, the HACP may not execute the HAP contract until the units fully comply with HQS, unless the HACP has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, unless the HACP has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.

**Pre-HAP Contract Inspections [24 CFR 983.103(b); FR Notice 1/18/17]**
The HACP must inspect each contract unit before execution of the HAP contract. The HACP may not enter into a HAP contract covering a unit until the unit fully complies with HQS, unless the HACP has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.

***HACP Policy:***
The HACP will not enter into a PBV HAP contract until all units that will be under contract fully comply with HQS.

**Turnover Inspections [24 CFR 983.103(c)]**
Before providing assistance to a new family in a contract unit, the HACP must inspect the unit. The HACP may not provide assistance on behalf of the family until the unit fully complies with HQS.

**Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**
At least once every 24 months during the term of the HAP contract, the HACP must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

***HACP Policy:***
The HACP will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the HACP must reinspect 100 percent of the contract units in the building.

**Other Inspections [24 CFR 983.103(e)]**
The HACP must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HACP must take into account complaints and any other information coming to its attention in scheduling inspections.

The HACP must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting HACP supervisory quality control HQS inspections, the HACP should include a representative sample of both tenant-based and project-based units.

**Inspecting PHA-Owned Units [24 CFR 983.103(f)]**
In the case of HACP-owned units, the inspections must be performed by an independent agency designated by the HACP and approved by HUD. The independent entity must furnish a copy of each inspection report to the HACP and to the HUD field office where the project is located. The HACP must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the HACP-owner.

## PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

### 17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

### 17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the HACP must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The HACP may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing. In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the HACP agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HACP will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

**Content of the Agreement [24 CFR 983.152(d)]**
At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units,
- Number of contract units by area (size) and number of bedrooms and bathrooms,
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent,
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant,
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement,
- Estimated initial rents to owner for the contract units,
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

**Execution of the Agreement [24 CFR 983.153]**
The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

***HACP Policy:***
The HACP will enter into the Agreement with the owner within ***10***

***business days*** of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

## 17-IV.C. CONDUCT OF DEVELOPMENT WORK

### Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

### Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

### Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

## 17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

### Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and

- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

***HACP Policy:***
The HACP will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The HACP will specify any additional documentation requirements in the Agreement to enter into HAP contract.

**PHA Acceptance of Completed Units [24 CFR 983.156]**
Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

## PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

### 17-V.A. OVERVIEW

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

### 17-V.B. HAP CONTRACT REQUIREMENTS

**Contract Information [24 CFR 983.203]**
The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms,
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building,
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit,
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner,
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant,
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8,
- The HAP contract term
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

**Execution of the HAP Contract [24 CFR 983.204]**
The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

***HACP Policy:***
For existing housing, the HAP contract will be executed within ***10 business days*** of the HACP determining that all units pass HQS.
For rehabilitated or newly constructed housing, the HAP contract will be executed within ***10 business days*** of the PHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required

evidence of completion.

**Term of HAP Contract [24 CFR 983.205; FR Notice 1/18/17]**

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

***HACP Policy:***

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the HACP may extend the term of the contract for an additional term of up to 20 years if the HACP determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A HACP may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the HACP agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of HACP-owned units, any extension of the term of the HAP contract must be agreed upon by the HACP and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

***HACP Policy:***

When determining whether or not to extend an expiring PBV contract, the HACP will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority,

The condition of the contract units,

The owner's record of compliance with obligations under the HAP contract and lease(s),

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

### *Termination by PHA [24 CFR 983.205(c); FR Notice 1/18/17]*

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

### *Termination by Owner [24 CFR 983.205(d)]*

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

### Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The

family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

**Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

***HACP Policy:***

The HACP will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

## 17-V.C. AMENDMENTS TO THE HAP CONTRACT

**Substitution of Contract Units [24 CFR 983.207(a)]**

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

**Addition of Contract Units [FR Notice 1/18/17]**

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must

submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

***HACP Policy:***
The HACP will not add contract units to the HAP contract.

**17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]**
The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

**17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]**
When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS,
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases,
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements,
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence,
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit,
- The amount of the HAP the owner is receiving is correct under the HAP contract,

- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units,
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

## 17-V.F. ADDITIONAL HAP REQUIREMENTS

### Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

> ***HACP Policy:***
> The HACP will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HACP will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

### Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment

received by the owner (including amounts available from the tenant's security deposit).

***HACP Policy:***
The HACP will decide on a case-by-case basis if the HACP will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

## PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

### 17-VI.A. OVERVIEW
Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### 17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]
The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

***HACP Policy:***

The HACP will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

**In-Place Families [24 CFR 983.251(b)]**

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

**17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

***HACP Policy:***

The HACP will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. The HACP currently has waiting lists for the following PBV projects:

**[Veteran's Square will be a direct referral property where no wait list will be utilized]**.

**17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

## Continuum of Care Assisted & PBV VASH Units

In addition to site-based waiting lists for each PBV property, the HACP may maintain a separate wait list for units designated for assistance through the ***Continuum of Care's Coordinated Entry System (CES).*** These units are required to be used to house homeless families that are in the CES for housing assistance referral. When vacancies occur at the PBV properties in these designated units, the owner shall request a suitable referral from the Coordinated Entry System & VASH or affiliated Veteran Support Agencies. Once the owner has reviewed the application and accepted the referral for housing assistance, the owner shall refer the family to the HACP's initial eligibility team for program eligibility determination and leasing. Families will only be placed on this waiting list if they are deemed suitable for occupancy by the owner and immediately processed for intake. This waiting list will not have a preference designation since all additions to the list will immediately be designated for specific units within the PBV portfolio. The only qualifier will be the date and time of the applicant's addition to the CES & PBV Wait List.

Units eligible for CES assistance and VASH priority are as follows:

- **Veterans Square – 901 Medanos Street, Pittsburg, CA**

***Direct Referrals from:***

- Coordinated Entry System (CES) for an authorized PBV Project
- VASH or affiliated Veterans Support Agencies in the Bay Area

**Income Targeting [24 CFR 983.251(c)(6)]**
At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

**Units with Accessibility Features [24 CFR 983.251(c)(7)]**
When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

**Preferences [24 CFR 983.251(d), FR Notice 11/24/08]**
The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The PHA may establish a selection preference for families who qualify for

voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with "excepted units" for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

> ***HACP Policy:***
> The HACP will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services or mobility impaired persons for accessible units). The HACP will not offer any additional preferences for the PBV program or for particular PBV projects or units.

## 17-VI.E. OFFER OF PBV ASSISTANCE

### Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance,
- Deny any admission preference for which the applicant qualifies,
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy,
- Remove the applicant from the tenant-based voucher waiting list.

### Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

### Acceptance of Offer [24 CFR 983.252]

***Family Briefing***

When a family accepts an offer for PBV assistance, the PHA must give the family

an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

***Persons with Disabilities***
If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

***Persons with Limited English Proficiency***
The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

## 17-VI.F. OWNER SELECTION OF TENANTS
The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

### Leasing [24 CFR 983.253(a)]
During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

### Filling Vacancies [24 CFR 983.254(a)]
The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

***HACP Policy:***
The owner must notify the HACP in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The HACP will make every reasonable effort to refer families to the owner within ***10 business days*** of receiving such notice from the owner.

**Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]**

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

***HACP Policy:***

If any contract units have been vacant for 120 days, the HACP will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The HACP will provide the notice to the owner within ***10 business days*** of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the HACP's notice.

## 17-VI.G. TENANT SCREENING [24 CFR 983.255]

**PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

***HACP Policy:***

The HACP will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The HACP must provide the owner with an applicant family's current and prior address (as shown in HACP records) and the name and address (if known by the HACP) of the family's current landlord and any prior landlords.

In addition, the HACP may offer the owner other information the HACP may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The HACP must provide applicant families a description of the HACP policy on providing information to owners, and the HACP must give the same types of information to all owners.

The HACP may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

***HACP Policy:***

The HACP will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The HACP will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

**Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills,
- Caring for a unit and premises,
- Respecting the rights of other residents to the peaceful enjoyment of their housing,
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

## PART VII: OCCUPANCY

### 17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### 17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

**Form of Lease [24 CFR 983.256(b)]**

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

***HACP Policy:***
The HACP will not review the owner's lease for compliance with state or local law.

**Lease Requirements [24 CFR 983.256(c)]**
The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant,
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit),
- The term of the lease (initial term and any provision for renewal),
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements,
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

**Tenancy Addendum [24 CFR 983.256(d)]**
The tenancy addendum in the lease must state:

- The program tenancy requirements,
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

**Initial Term and Lease Renewal [24 CFR 983.256(f)]**
The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract

- The PHA terminates assistance for the family

**Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes. The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

**Owner Termination of Tenancy [24 CFR 983.257]**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

**Continuation of Housing Assistance Payments [24 CFR 982.258]**

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

***HACP Policy:***

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the HACP of the change and request an interim reexamination before the expiration of the 180-day period.

**Security Deposits [24 CFR 983.259]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

***HACP Policy:***

The HACP will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease. The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The HACP has no liability or responsibility for payment of any amount owed by the family to the owner.

**17-VII.C. MOVES**

**Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]**

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

***HACP Policy:***

The HACP will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within ***10 business days*** of the HACP's determination. The HACP will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project,

PBV assistance in another project; and

Tenant-based voucher assistance.

If the HACP offers the family a tenant-based voucher, the HACP must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the HACP) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the HACP must remove the unit from the HAP contract.

If the HACP offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

***HACP Policy:***

When the HACP offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the HACP will terminate the housing assistance payments at the expiration of this 30-day period.

The HACP may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

**Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

**Emergency Transfers under VAWA [Notice PIH 2017-08]**

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

***HACP Policy:***

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, the HACP will provide several options for continued assistance.

The HACP will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the HACP has PBV units. The HACP will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the HACP's public housing program. Such a decision will be made by the HACP based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The HACP has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the HACP will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the HACP has PBV units. The HACP will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the HACP's public housing program. The HACP has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to

expedite this process.

## 17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

The PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates
    - For these projects, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a “qualifying family” because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family. Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant’s needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be

removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA. The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

***HACP Policy:***

The HACP will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

In all other cases, the HACP will provide written notice to the family and owner within ***10 business days*** of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the HACP will terminate the housing assistance payments at the expiration of this 30-day period.

The HACP may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

## PART VIII: DETERMINING RENT TO OWNER

### 17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that

there is a five percent or greater decrease in the published FMR.

## 17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance,
- The reasonable rent; or
- The rent requested by the owner.

### Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986,
- The contract unit is not located in a qualified census tract,
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard,

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance,
- The reasonable rent; or
- The rent requested by the owner.

### *Definitions*

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

*Tax credit rent* is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not

have any additional rental assistance (e.g., tenant-based voucher assistance).

**Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]**
The PHA must determine reasonable rent in accordable with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordable with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

> ***HACP Policy:***
> The HACP will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the HACP will use the higher initial rent to owner amount.

**Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]**
When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

***HACP Policy:***
Upon written request by the owner, the HACP will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The HACP will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HACP may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the HACP determines it is necessary due to HACP budgetary constraints.

**Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]**
While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs (either by HUD-designation or because the PHA requested HUD approval to use SAFMRs) may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective dates of both the SAFMR designation and the PHA administrative plan policy, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

***HACP Policy:***
The HACP will not apply SAFMRs to the HACP's PBV program.

**Redetermination of Rent [24 CFR 983.302]**
The PHA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

***Rent Increase***

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

***HACP Policy:***

An owner's request for a rent increase must be submitted to the HACP 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

The HACP may not approve, and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

***Rent Decrease***

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

***Notice of Rent Change***

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

***HACP Policy:***

The HACP will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

**PHA-Owned Units [24 CFR 983.301(g)]**

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by

the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

## 17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

**When Rent Reasonable Determinations Are Required:**

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date,
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant,
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

**How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

***Comparability Analysis***

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

**PHA-Owned Units**

For PHA-owned units, the amount of the reasonable rent must be determined by

an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

**Owner Certification of Reasonable Rent**
By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

## 17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

**Other Subsidy [24 CFR 983.304]**
To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.
For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.
For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project,
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action,
- A Section 221(d)(3) below market interest rate (BMIR) project,
- A Section 515 project of the Rural Housing Service,
- Any other type of federally subsidized project specified by HUD.

***Combining Subsidy***
Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

**Rent Control [24 CFR 983.305]**
In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or

federal law.

## PART IX: PAYMENTS TO OWNER

### 17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit). The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).
In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

### 17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

> ***HACP Policy:***
> If the HACP determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the HACP will notify the landlord of the amount of housing assistance payment that the owner must repay. The HACP will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the HACP, the HAP contract may provide for vacancy payments to the owner. The HACP may only make vacancy payments if:

- The owner gives the HACP prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);

- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed,
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

***HACP Policy:***

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the HACP of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within ***10 business days*** of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HACP may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HACP within ***10 business days*** of the HACP's request, no vacancy payments will be made.

## 17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

### Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of

an assisted family for nonpayment by the PHA.
Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

**Utility Reimbursements**
If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.
The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

***HACP Policy:***
The HACP will make utility reimbursements to the family.

## 17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

**Meals and Supportive Services**
With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.
In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

**Other Charges by Owner**
The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

# End of Administrative Plan

# GLOSSARY

## A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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| **AAF** | Annual adjustment factor (published by HUD in the *Federal Register* and used to compute annual rent adjustments) |
| **ACC** | Annual contributions contract |
| **ADA** | Americans with Disabilities Act of 1990 |
| **AIDS** | Acquired immune deficiency syndrome |
| **BR** | Bedroom |
| **CDBG** | Community Development Block Grant (Program) |
| **CFR** | Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”) |
| **CPI** | Consumer price index (published monthly by the Department of Labor as an inflation indicator) |
| **EID** | Earned income disallowance |
| **EIV** | Enterprise Income Verification |
| **FDIC** | Federal Deposit Insurance Corporation |
| **FHA** | Federal Housing Administration (HUD Office of Housing) |
| **FHEO** | Fair Housing and Equal Opportunity (HUD Office of) |
| **FICA** | Federal Insurance Contributions Act (established Social Security taxes) |
| **FMR** | Fair market rent |
| **FR** | Federal Register |
| **FSS** | Family Self-Sufficiency (Program) |
| **FY** | Fiscal year |
| **FYE** | Fiscal year end |
| **GAO** | Government Accountability Office |
| **GR** | Gross rent |
| **HA** | HACP or housing agency |
| **HAP** | Housing assistance payment |
| **HCV** | Housing choice voucher |
| **HQS** | Housing quality standards |

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| **HUD** | Department of Housing and Urban Development |
| **HUDCLIPS** | HUD Client Information and Policy System |
| **IPA** | Independent public accountant |
| **IRA** | Individual retirement account |
| **IRS** | Internal Revenue Service |
| **JTPA** | Job Training Partnership Act |
| **LBP** | Lead-based paint |
| **LEP** | Limited English proficiency |
| **MSA** | Metropolitan statistical area (established by the U.S. Census Bureau) |
| **MTCS** | Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system) |
| **MTW** | Moving to Work |
| **NOFA** | Notice of funding availability |
| **OGC** | HUD's Office of General Counsel |
| **OIG** | HUD’s Office of Inspector General |
| **OMB** | Office of Management and Budget |
| **PASS** | Plan to Achieve Self-Support |
| **PHA** | Public housing agency |
| **PIC** | PIH Information Center |
| **PIH** | (HUD Office of) Public and Indian Housing |
| **PS** | Payment standard |
| **QC** | Quality control |
| **REAC** | (HUD) Real Estate Assessment Center |
| **RFP** | Request for proposals |
| **RFTA** | Request for tenancy approval |
| **RIGI** | Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level) |
| **SEMAP** | Section 8 Management Assessment Program |
| **SRO** | Single room occupancy |
| **SSA** | Social Security Administration |

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| **SSI** | Supplemental security income |
| **SWICA** | State wage information collection agency |
| **TANF** | Temporary assistance for needy families |
| **TPV** | Tenant protection vouchers |
| **TR** | Tenant rent |
| **TTP** | Total tenant payment |
| **UA** | Utility allowance |
| **UFAS** | Uniform Federal Accessibility Standards |
| **UIV** | Upfront income verification |
| **URP** | Utility reimbursement payment |
| **VAWA** | Violence Against Women Reauthorization Act of 2013 |

## B. GLOSSARY OF SUBSIDIZED HOUSING TERMS:

***Absorption*.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

***Accessible*.** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

***Adjusted income*.** Annual income, less allowable HUD deductions and allowances.

***Administrative fee.*** Fee paid by HUD to the PHA for administration of the program. See §982.152.

***Administrative plan.*** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

***Admission*.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

***Affiliated individual.*** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

***Amortization payment.*** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

***Annual.*** Happening once a year.

***Annual contributions contract (ACC).*** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

***Annual income*.** The anticipated total income of an eligible family from all sources for the
12-month period following the date of determination of income, computed in accordance with the regulations.

***Applicant (applicant family).*** A family that has applied for admission to a program but is not yet a participant in the program.

***Area exception rent.*** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

***As-paid states.*** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

***Assets.*** (See *net family assets.*)

***Auxiliary aids.*** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

***Biennial.*** Happening every two years.

***Bifurcate.*** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

***Budget authority.*** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

***Child.*** *A* member of the family other than the family head or spouse who is under 18 years of age.

***Childcare expenses.*** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

***Citizen.*** *A* citizen or national of the United States.

***Cohead.*** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

***Common space.*** In shared housing, the space available for use by the assisted family and other occupants of the unit.

***Computer match.*** The automated comparison of databases containing records about individuals.

***Confirmatory review.*** An on-site review performed by HUD to verify the management performance of a PHA.

***Consent form*.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

***Congregate housing.*** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

***Contiguous MSA.*** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

***Continuously assisted.*** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

***Contract authority.*** The maximum annual payment by HUD to a PHA for a funding increment.

***Cooperative*** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

***Covered families*.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

***Dating violence.*** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

***Dependent*.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

***Dependent child.*** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

***Disability assistance expenses*.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled family*.** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

***Disabled person.*** See *person with disabilities.*

***Disallowance.*** Exclusion from annual income.

***Displaced family*.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

***Domestic violence.*** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

***Domicile*.** The legal residence of the household head or spouse as determined in accordance with state and local law.

***Drug-related criminal activity.*** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

***Economic self-sufficiency program*.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

***Elderly family*.** A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

***Elderly person*.** An individual who is at least 62 years of age.

***Eligible family*** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family.*

***Employer identification number (EIN)*.** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

***Evidence of citizenship or eligible status*.** The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

***Extremely low-income family.*** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

***Facility.*** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

***Fair Housing Act.*** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

***Fair market rent (FMR)*.** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

***Family*.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

***Family rent to owner.*** In the voucher program, the portion of rent to owner paid by the family.

***Family self-sufficiency program*** (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

***Family share.*** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

***Family unit size.*** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

***Federal agency*.** A department of the executive branch of the federal government.

***Foster childcare payment*.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

***Full-time student.*** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

***Funding increment.*** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

***Gender identity.*** Actual or perceived gender-related characteristics.

***Gross rent.*** The sum of the rent to owner plus any utility allowance.

***Group home.*** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

***Handicap*.** Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

***HAP contract.*** The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

***Head of household.*** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

***Household.*** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

***Housing assistance payment.*** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

***Housing agency (HA).*** See *public housing agency.*

***Housing quality standards (HQS).*** The HUD minimum quality standards for housing assisted under the voucher program.

***HUD.*** The U.S. Department of Housing and Urban Development.

***Imputed asset.*** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

***Imputed asset income.*** The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed $5,000.

***Imputed welfare income.*** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

***Income*.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

***Income for eligibility.*** Annual income.

***Income information*** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address,

telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law

- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages, and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

***Individual with handicaps*.** See *person with disabilities.*

***Initial PHA*.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

***Initial payment standard.*** The payment standard at the beginning of the HAP contract term.

***Initial rent to owner.*** The rent to owner at the beginning of the HAP contract term.

***Institution of higher education.*** An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

***Jurisdiction*.** The area in which the PHA has authority under state and local law to administer the program.

***Landlord*.** Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

***Lease*.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA

***Live-in aide*.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

***Living/sleeping room.*** A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

***Local preference.*** A preference used by the PHA to select among applicant families.

***Low-income family.*** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

***Manufactured home.*** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

***Manufactured home space.*** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

***Medical expenses*.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

***Minor*.** A member of the family household other than the family head or spouse, who is under 18 years of age.

***Mixed family.*** *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

***Monthly adjusted income*.** One twelfth of adjusted income.

***Monthly income*.** One twelfth of annual income.

***Mutual housing.*** Included in the definition of *cooperative.*

***National.*** *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

***Near-elderly family*.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

***Net family assets*.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of

necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

***Noncitizen.*** *A* person who is neither a citizen nor national of the United States.

***Notice of funding availability (NOFA).*** For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

***Office of General Counsel (OGC)*****.** The General Counsel of HUD.

***Overcrowded.*** A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

***Owner*****.** Any person or entity with the legal right to lease or sublease a unit to a participant.

***PHA Plan.*** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

***PHA's quality control sample.*** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

***Participant (participant family).*** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

***Payment standard.*** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

***Person with disabilities.*** *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

***Portability*.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

***Premises*.** The building or complex in which the dwelling unit is located, including common areas and grounds.

***Previously unemployed.*** With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

***Private space*.** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

***Processing entity*.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the “processing entity” is the “responsible entity.”

***Project owner.*** The person or entity that owns the housing project containing the assisted dwelling unit.

***Public assistance*.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

***Public housing agency (PHA)*.** Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

***Qualified family*** (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

***Qualified census tract.*** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

***Reasonable rent.*** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

***Reasonable accommodation.*** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

***Receiving PHA.*** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

***Recertification.*** Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

***Remaining member of the tenant family.*** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

***Rent to owner.*** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

***Residency preference.*** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

***Residency preference area.*** The specified area where families must reside to qualify for a residency preference.

***Responsible entity***. For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

***Secretary*.** The Secretary of Housing and Urban Development.

***Section 8*.** Section 8 of the United States Housing Act of 1937.

***Section 8 covered programs.*** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

***Section 214.*** Section 214 of the Housing and Community Development Act of 1980, as amended.

***Section 214 covered programs.*** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

***Security deposit.*** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

***Set-up charges.*** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

***Sexual assault.*** Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

***Sexual orientation.*** Homosexuality, heterosexuality or bisexuality.

***Shared housing.*** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

***Single person.*** A person living alone or intending to live alone.

***Single room occupancy housing (SRO).*** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

***Social security number (SSN).*** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

***Special admission.*** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

***Special housing types.*** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

***Specified welfare benefit reduction.*** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

***Spouse.*** The marriage partner of the head of household.

***Stalking.*** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

***State wage information collection agency (SWICA).*** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

***Subsidy standards.*** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

***Suspension.*** The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling.*

***Tax credit rent.*** With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

***Tenancy addendum.*** For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

***Tenant.*** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

***Tenant rent to owner.*** See *family rent to owner*.

***Term of lease.*** The amount of time a tenant agrees in writing to live in a dwelling unit.

***Total tenant payment (TTP).*** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

***Unit.*** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

***Utilities.*** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

***Utility allowance.*** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

***Utility reimbursement.*** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

***Utility hook-up charge.*** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

***Very low-income family.*** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

***Veteran.*** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

***Violence Against Women Reauthorization Act (VAWA) of 2013.*** Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

***Violent criminal activity.*** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

***Voucher*** *(housing choice voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

***Voucher holder.*** A family holding a voucher with an unexpired term (search time).

***Voucher program.*** The housing choice voucher program.

***Waiting list.*** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

***Waiting list admission.*** An admission from the PHA waiting list.

***Welfare assistance***. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare or other services for working families. For the FSS program (984.103(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.

# NOTICE OF PUBLIC HEARING

## HOUSING AUTHORITY OF THE CITY OF PITTSBURG
## 2021 PHA ADMINISTRATIVE PLAN REVISIONS

Notice is hereby given that the Housing Authority of the City of Pittsburg will hold a Public Hearing regarding proposed revisions to the PHA Administrative Plan for 2021. This plan include the mission, goals and objectives as well as the Housing Authority's involvement in the provision of affordable housing in Pittsburg, through the Housing Choice Voucher Program.

A minimum forty-five (45) day public comment period prior to the Public Hearing, will commence on November 2,2021 to receive public input on the Housing Authority of the City of Pittsburg's PHA Administrative Plan revisions for 2021.

Proponents, opponents and any interested persons may submit written comments during the public comment period no later than **December 20, 2021 by 5:00 p.m.** to:

Housing Authority of the City of Pittsburg
916 Cumberland Street, Pittsburg, CA 94565
Attn: Bruce Smargiasso, Housing Manager

The **Public Hearing** will take place on the following date, time and location:

| | |
|---|---|
| Date: | **Monday, December 20, 2021** |
| Time: | **7:00 p.m**. |
| Location: | **Zoom Teleconference/Streaming Video (see public advisory on the next page)** |

The PHA Administrative Plan revisions for 2021 are available for review at the City of Pittsburg Housing Authority, located at 916 Cumberland Street, Pittsburg, CA 94565, between the hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday.

**PUBLIC ADVISORY:**
**THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the City Council will be conducted electronically through Zoom and broadcast live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. Council Members will be participating electronically and will not be physically present in the Council Chamber.

Beginning with the January 19, 2021 City Council Meeting, live comments will be allowed by members of the public via teleconferencing during Zoom meetings and written comments received after 3:00 p.m. will be read aloud by staff. To be placed in a queue to comment, please adhere to the following instructions.

## To Participate in Public Comment During the Meeting:

- Notify the City Clerk's Office via email by 3:00 p.m. on the meeting date that you would like to be placed in the queue for general Public Comments, or comments on a specific agenda item. Requests received after 3:00 p.m. on the date of the meeting will not be able to comment.
- Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided or we may not be able to identify you as a speaker.
- Your email must include the words **"FOR PUBLIC COMMENT"** in the subject line and specify the **Agenda Item number or Non-Agenda** as appropriate.
- You will receive an email confirmation with instructions to log in.
- Once the meeting starts (check the Streaming Media link on our website – www.ci.pittsburg.ca.us) you can phone in to Zoom. If you log in before the event has actually started you may be disconnected.
- You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.
- Speakers will be muted until their opportunity to provide public comment.
- All comments will be subject to the three-minute time limitation (approximately 350 words).
- Begin your comment by providing your name and city of residence for the record – although providing this is not required for participation.
- Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

The City of Pittsburg thanks you in advance for taking all precautions to prevent the spread of the COVID 19 virus.

# NOTICE OF PUBLIC HEARING

**HOUSING AUTHORITY OF THE CITY OF PITTSBURG**
**2021 PHA ADMINISTRATIVE PLAN REVISIONS**

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**Housing Authority of the City of Pittsburg**
**916 Cumberland Street, Pittsburg, CA 94565**
**Attn: Bruce Smargiasso, Housing Manager**

The Public Hearing will take place on the following date, time and location:

**Date:** **Monday, December 20, 2021**
**Time:** **7:00 p.m.**
**Location:** **Zoom Teleconference/Streaming Video**
(see public advisory on the next page)

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• Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided or we may not be able to identify you as a speaker.

• Your email must include the words "FOR PUBLIC COMMENT" in the subject line and specify the Agenda Item number or Non-Agenda as appropriate.

• You will receive an email confirmation with instructions to log in.

• Once the meeting starts (check the Streaming Media link on our website - www.ci.pittsburg.ca.us) you can phone in to Zoom. If you log in before the event has actually started you may be disconnected.

• You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.

• Speakers will be muted until their opportunity to provide public comment.

• All comments will be subject to the three-minute time limitation (approximately 350 words).

• Begin your comment by providing your name and city of residence for the record - although providing this is not required for participation.

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**ECT# 6622412 Nov. 5, 2021**

Housing Authority of the City of Pittsburg

# Housing Authority of the City of Pittsburg Administrative Plan 2021-2022

# Definition & Purpose

- The Administrative Plan is the operational manual for the housing choice voucher program.

- The plan establishes local policies for administration of the program in accordance with HUD requirements.

- It is the supporting document to the PHA 5-Year & Annual Plan

# Significant Changes

- Family Definition Clarification
- Future Wait List Policy Revision
- Policy for Adding Family Members
- VAWA Language & Policy Update
- PBV Referral Policy Change for Veteran's Square

# Recommendation

The Governing Board of the Housing Authority open the public hearing, receive testimony, close the public hearing, consider the public comments, and adopt the Resolution approving the Administrative Plan for 2021-2022.

Housing Authority of the City of Pittsburg

# Questions?

**CITY OF PITTSBURG**
**HOUSING AUTHORITY MEETING MINUTES**

**DATE:** November 15, 2021

**LOCATION:** Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

**CITY COUNCIL.AGENCY MEMBERS**
Marilyn Craft, Mayor/Chair
Holland Barrett White, Vice-Mayor/Chair
Shanelle Scales-Preston, Council/Agency Member
Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

**APPOINTED OFFICIALS**
Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the City Council for November 15, 2021 was conducted electronically for Closed Session and through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated electronically or through Zoom and were not physically present in the Council Chamber.

**CALL TO ORDER**

Chair Craft called the meeting of the Housing Authority to order at 7:54 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, California.

**ROLL CALL**

All Members were present.

**CONSENT CALENDAR**

On motion by Member Banales, seconded by Vice-Chair White to adopt and carried unanimously.

6. Minutes of August 16, 2021, October 4, 2021, and November 1, 2021

7. Disbursement Lists of July 31, 2021, August 31, 2021 and September 30, 2021

8. Adoption of a Housing Authority Resolution Establishing an Interest-Bearing Money Market Account to Serve as Collateral for a Housing Authority Line of Credit.

9. Adoption of a Housing Authority Resolution Authorizing Execution of an Agreement Between the Housing Authority and Yardi Systems, Inc. for Procurement of a Voyager SaaS Select Software

## HOUSING AUTHORITY MEMBER REMARKS

Member Floyd thanked the District Attorney for her review of services and in particular the awareness of the cameras on Highway 4 and their impact.

Member Herring asked for information on the community court.

## ADJOURNMENT

The Housing Authority was adjourned at 7:57 P.M.

Respectfully submitted,

Alice E. Evenson, Secretary

**CITY OF PITTSBURG**
**CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

**DATE:** November 29, 2021

**LOCATION:** Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

**CITY COUNCIL.AGENCY MEMBERS**
Marilyn Craft, Mayor/Chair
Holland Barrett White, Vice-Mayor/Chair
Shanelle Scales-Preston, Council/Agency Member
Juan Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

**APPOINTED OFFICIALS**
Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the City Council for November 29, 2021 was conducted electronically for Closed Session and through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated electronically or through Zoom and were not physically present in the Council Chamber.

Mayo/Chair Craft called the Meeting of the City Council to order at 5:04 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA.

**ROLL CALL**

All Members were present.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**PUBLIC COMMENTS**

There were no public comments.

**CONSIDERATION**

1. Adoption of Resolutions Making Findings in Support of Continuing to Hold Public Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

On Motion by Mayor/Chair Craft, seconded by Vice-Mayor/Chair White to adopt the resolution with the following changes. The final paragraph of the resolution will read: be it further resolved that the City Council hereby approves meetings of the boards and subcommittees to be held by teleconference in compliance with California government code 54953e. Be it further resolved that the City Council and all Commissions shall meet in person and the public may attend in person so long as they are required to show proof of vaccination or negative test results 72 hours prior to the meeting; masks are required for all in attendance in person, social distance is required in the meeting room/Council Chamber and staff is required to monitor the CDC and County Health dashboard.

Mayor/Chair Craft withdrew the Motion.

On Motion by Vice-Mayor White, seconded by Member Scales-Preston to keep business as usual with virtual meetings and Motion failed with the following vote:

AYES: Scales-Preston, White
NOES: Banales, Killings
ABSTAIN: Craft

On Motion by Mayor Craft, seconded by Member Banales to adopt the resolution with the following changes. Meetings of the City Council and Commissions shall be in person except that members of the public would attend by teleconference and carried unanimously.

On Motion by Mayor Craft, seconded by Member Banales to adopt the resolutions of the Governing Boards with the following changes. Meetings of the City Council and Commissions shall be in person except that members of the public would attend by teleconference and carried unanimously.

The City Council recessed at 5:52 P.M.

The City Council adjourned at 6:02 P.M. to a Joint Workshop with the Planning Commission for Envision Pittsburg General Plan Update Land Use Alternatives.

## ADJOURNMENT

The Workshop adjourned at 8:00 P.M. to December 6, 2021.

Respectfully submitted,

Alice E. Evenson, City Clerk

# HOUSING AUTHORITY OF THE CITY OF PITTSBURG
## DISBURSEMENT SUMMARY
## FOR THE MONTH ENDED OCTOBER 31ST, 2021

**VOUCHERS**

| Ck# | Amount | HAP[1] | VASH[2] | UR[3] | Portability | Admin. Fee | TOTAL |
|---|---|---|---|---|---|---|---|
| 50217-50356<br>90121001-90121469 | $ 1,598,678.90 | 1,483,221.43 | 94,827.44 | 11,207.32 | 8,742.00 | 680.71 | $ 1,598,678.90 |
| 50357-50369<br>91521001-91521004 | 25,600.00 | 22,676.00 | 2,924.00 | - | - | - | 25,600.00 |
| **TOTAL** | **$ 1,624,278.90** | **1,505,897.43** | **97,751.44** | **11,207.32** | **8,742.00** | **680.71** | **$ 1,624,278.90** |

[1]Housing Assistance Payment [2]Veterans Affairs Supportive Housing [3]Utility Reimbursement

**ADMINISTRATIVE EXPENSES**

| Description | TOTAL |
|---|---|
| Salaries and Wages | $ 66,420.89 |
| Salary Stipend | 6,650.00 |
| Salaries- Overtime | 461.43 |
| Retirement Miscellaneous | 4,963.39 |
| Retirement - Pension Bonds | 7,665.50 |
| Health Insurance - Employees | 14,052.48 |
| Additional CalPERS Pension Contribution | 439.39 |
| Life Insurance | 78.34 |
| Dental Insurance | 1,217.76 |
| Vision - Employee | 140.64 |
| Workers' Compensation | 2,368.43 |
| Unemployment Insurance | 432.06 |
| Disability Insurance | 148.71 |
| F I C A & Medicare | 5,678.04 |
| Deferred Compensation - Employer | 1,125.00 |
| Vac Buy-Bk/Empl Termination | 1,061.17 |
| Pension 115 Trust | 655.92 |
| Retiree OPEB Costs | 3,017.83 |
| Computer Software Expense | 350.00 |
| Postage | 156.99 |
| Misc Equip & Furniture < $5,000 | 3,248.26 |
| Utilities - Electric | 1,649.82 |
| Utilities - Water | 13.84 |
| Utilities - Telephone Service | 670.58 |
| Utilities - WiFi/Cellphone Service | 231.65 |
| Membership Dues & Subscriptions | 1,480.88 |
| Travel, Training & Conferences | 655.00 |
| Insurance - Alloc Chgs | 3,246.33 |
| Other Contractual & Professional Service | 8,672.44 |
| Maintenance Agreements | 5,196.55 |
| Equipment Rental | 155.90 |
| Building Rental | 2,375.00 |
| Fleet Maintenance Alloc Chgs | 576.58 |
| Building Maintenance Alloc Chgs | 1,769.42 |
| Information Systems Alloc Chgs | 1,755.67 |
| Admin Overhead Paid to City | 4,830.33 |
| Utilities - Water (Rental Program) | 45.39 |
| Other fees (Rental Program) | 279.53 |
| Transfer-Out to OPEB Fund(Unfunded Liab) | 1,556.67 |
| | - |
| | - |
| | $ 155,493.81 |

**VOIDED CHECKS & ADJUSTMENTS**

| Ck# | Reason | Amount |
|---|---|---|
| **10121460** | Void check | $ (1,354.00) |
| | | - |
| | TOTAL | $ (1,354.00) |

Prepared by: HB
Reviewed by: LM

**NET OF ISSUED AND VOIDED PAYMENTS $ 1,778,418.71**

# Check Summary

October 1, 2021

| | Check Number | Check Date | Payee Tax ID | Payee | Amount |
|---|---|---|---|---|---|
| **Housing Choice Voucher** | | | | | |
| * | 50002 | 10/1/21 | *****2494 | Amana K Cornish | **30.00** |
| | 50003 | 10/1/21 | *****7533 | Angelique F Davis | **103.00** |
| | 50004 | 10/1/21 | *****7730 | Ashley M Brown | **147.00** |
| | 50005 | 10/1/21 | *****4973 | Be Thi Nguyen | **39.00** |
| | 50006 | 10/1/21 | *****1702 | Christina M Fitzgerald | **63.00** |
| | 50007 | 10/1/21 | *****4282 | Cynthia g Cones | **33.00** |
| | 50008 | 10/1/21 | *****0269 | Dajon W Smith | **47.00** |
| | 50009 | 10/1/21 | *****9835 | Darrell C Carter | **15.00** |
| | 50010 | 10/1/21 | *****3976 | Darren M Thompson | **36.00** |
| | 50011 | 10/1/21 | *****2319 | Delfonse A Lewis | **173.00** |
| | 50012 | 10/1/21 | *****3528 | Elisa Johnson | **175.00** |
| | 50013 | 10/1/21 | *****3840 | Eva L Mangum | **85.00** |
| | 50014 | 10/1/21 | | Franchise Tax Board | **253.50** |
| | 50015 | 10/1/21 | *****6015 | Jade Nelson | **123.00** |
| | 50016 | 10/1/21 | *****7910 | Javecia M Horton | **23.00** |
| | 50017 | 10/1/21 | *****6377 | Jo Ann Brooks | **29.00** |
| | 50018 | 10/1/21 | *****4091 | Joshua C Perez | **220.00** |
| | 50019 | 10/1/21 | *****2855 | Karen L Dixon | **11.00** |
| | 50020 | 10/1/21 | *****2309 | Kawanda M Dotson | **34.00** |
| | 50021 | 10/1/21 | *****6519 | Krystal M Williams | **67.00** |
| | 50022 | 10/1/21 | *****7253 | Laneava S Blanks | **38.00** |
| | 50023 | 10/1/21 | *****3960 | Lyniece N Eddins | **1.00** |
| | 50024 | 10/1/21 | *****3347 | Maria B Martinez | **14.00** |
| | 50025 | 10/1/21 | *****8042 | Melissa J Perkins | **234.00** |
| | 50026 | 10/1/21 | *****7988 | Melvina D Brunt | **190.00** |
| | 50027 | 10/1/21 | *****0451 | Michelle A Manuel-Carter | **116.00** |
| | 50028 | 10/1/21 | *****8275 | Mildred G Botello | **110.00** |
| | 50029 | 10/1/21 | *****2674 | Monika Smith | **37.00** |
| | 50030 | 10/1/21 | *****9905 | Nakisha Fountain | **137.00** |
| | 50031 | 10/1/21 | *****8665 | Nieza M Burrus | **250.00** |
| | 50032 | 10/1/21 | *****4119 | Pashenia D Sanders | **115.00** |
| | 50033 | 10/1/21 | *****6935 | Samaiyah A Warren | **67.00** |
| | 50034 | 10/1/21 | *****5994 | Shamia L Patterson | **304.00** |
| | 50035 | 10/1/21 | *****3403 | Shanae V Washington | **98.00** |

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| | | | | |
|---|---|---|---|---|
| 50036 | 10/1/21 | *****3817 | Tameka T Thomas | **554.00** |
| 50037 | 10/1/21 | *****3772 | Tatyana A Jackson | **39.00** |
| 50038 | 10/1/21 | *****6806 | Thelma R Hearne | **21.00** |
| 50039 | 10/1/21 | *****1595 | Theresa M Evans | **51.00** |
| 50040 | 10/1/21 | *****5301 | Tiffany N Butler | **121.00** |
| 50041 | 10/1/21 | *****1418 | Patricia A Blocker | **27.00** |
| 50042 | 10/1/21 | *****8240 | Vanna L Warga | **430.00** |
| 50043 | 10/1/21 | *****1654 | Jaime M Lopez | **175.00** |
| 50044 | 10/1/21 | *****2890 | Raquel E Miller | **57.00** |
| 50045 | 10/1/21 | *****1679 | Albert K Lea III | **466.00** |
| 50046 | 10/1/21 | *****5232 | Danielle M Thomas | **56.00** |
| 50047 | 10/1/21 | *****0164 | Bobbie J Royston | **144.00** |
| 50048 | 10/1/21 | *****4208 | Ono c Rothschild | **317.00** |
| 50049 | 10/1/21 | *****2184 | Evelyn Smith | **109.00** |
| 50050 | 10/1/21 | *****9858 | Livis J Sanders | **15.00** |
| 50051 | 10/1/21 | *****3035 | Irma M Castillo | **53.00** |
| 50052 | 10/1/21 | *****5133 | Mary P Grigsby | **141.00** |
| 50053 | 10/1/21 | *****3180 | Kamika C Thigpen | **9.00** |
| 50054 | 10/1/21 | *****8373 | Vonia Jackson | **131.00** |
| 50055 | 10/1/21 | *****8612 | Regina D Tucker | **68.00** |
| 50056 | 10/1/21 | *****9687 | Carol J Davis | **48.00** |
| 50057 | 10/1/21 | *****6015 | Sherron A Camp | **292.00** |
| 50058 | 10/1/21 | *****9122 | Nancy M Parrish | **214.00** |
| 50059 | 10/1/21 | *****0531 | Akilah Z Parker | **145.00** |
| 50060 | 10/1/21 | *****5492 | Michelle m Berry | **7.00** |
| 50061 | 10/1/21 | *****7135 | Michele N Nichols | **80.00** |
| 50062 | 10/1/21 | *****8831 | Theresa p Jones | **7.00** |
| 50063 | 10/1/21 | *****5626 | Lashawn P Fields | **3.00** |
| 50064 | 10/1/21 | *****5232 | Kristina M Greer | **81.00** |
| 50065 | 10/1/21 | *****3113 | Mannah S Parrott | **79.00** |
| 50066 | 10/1/21 | *****6215 | Janet Brown | **118.36** |
| 50067 | 10/1/21 | *****4767 | Freddie L Henderson | **39.00** |
| 50068 | 10/1/21 | *****3181 | Shirley J Strausbaugh | **11.00** |
| 50069 | 10/1/21 | *****2695 | Monique Thompson | **60.00** |
| 50070 | 10/1/21 | *****0903 | Virgie r Gray | **61.00** |
| 50071 | 10/1/21 | *****6507 | Melissa R Griffin | **29.00** |
| 50072 | 10/1/21 | *****1129 | Tiffany L Pellom | **22.00** |
| 50073 | 10/1/21 | *****4987 | Delois Sanford | **11.00** |
| 50074 | 10/1/21 | *****3869 | Charlene M Best | **22.00** |
| 50075 | 10/1/21 | *****8818 | Renee d Ford | **66.00** |
| 50076 | 10/1/21 | *****4721 | Ebony N Manning | **42.00** |

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|---|---|---|---|---|
| 50077 | 10/1/21 | *****4651 | Lisa Rantissi | **23.00** |
| 50078 | 10/1/21 | *****7571 | Jamila M Al-Malik | **74.00** |
| 50079 | 10/1/21 | *****8494 | Kimdreal G Venson | **101.00** |
| 50080 | 10/1/21 | *****5692 | Jakeesha S Acree | **470.00** |
| 50081 | 10/1/21 | *****1606 | Tamika Brown | **62.00** |
| 50082 | 10/1/21 | *****8308 | DeAndre A Ellingberg | **106.00** |
| 50083 | 10/1/21 | *****5083 | Crystal j Houston | **229.00** |
| 50084 | 10/1/21 | *****8992 | Carrie L Saravia | **275.00** |
| 50085 | 10/1/21 | *****6858 | Shawna M Jones | **43.00** |
| 50086 | 10/1/21 | *****6573 | Hermajo L Hoskins | **111.00** |
| 50087 | 10/1/21 | *****8533 | Ebony N Washington | **265.00** |
| 50088 | 10/1/21 | *****0256 | Debra Gregory | **33.00** |
| 50089 | 10/1/21 | *****3277 | Stacie J Hogan | **167.00** |
| 50090 | 10/1/21 | *****8765 | Antoinette D Durrett | **178.00** |
| 50091 | 10/1/21 | *****2542 | Sau C Ly | **26.00** |
| 50092 | 10/1/21 | *****6953 | Nathan Banks JR | **23.00** |
| 50093 | 10/1/21 | *****0342 | Beverly A Lockwood | **7.00** |
| 50094 | 10/1/21 | *****0410 | Ashley S Andrews | **26.00** |
| 50095 | 10/1/21 | *****6598 | Ardean M Goulart | **39.00** |
| 50096 | 10/1/21 | *****7390 | Masuda Nawabi | **15.00** |
| 50097 | 10/1/21 | *****1951 | Vinisha D Thornton | **97.00** |
| 50098 | 10/1/21 | *****0849 | Briana l Edwards | **132.00** |
| 50099 | 10/1/21 | *****7822 | Daudi K Edmond | **55.00** |
| 50100 | 10/1/21 | *****5758 | Monique c Chaves | **165.00** |
| 50101 | 10/1/21 | *****6095 | Leilani S Gomez | **280.00** |
| 50102 | 10/1/21 | *****9325 | JOW & AAW, LLC | **1,706.00** |
| 50103 | 10/1/21 | *****6825 | A Classey Corp.<br>DBA: ACL Property Management | **2,105.00** |
| 50104 | 10/1/21 | *****9326 | Western Addition Apartments, LLC | **4,145.00** |
| 50105 | 10/1/21 | *****8574 | Alamo Square Apartments LLC | **2,601.00** |
| 50106 | 10/1/21 | *****1636 | Jimmy Bhatia | **1,486.00** |
| 50107 | 10/1/21 | *****2361 | George Edward Cole | **1,635.00** |
| 50108 | 10/1/21 | *****2979 | Mr. Donald Rhodes<br>C/O Paul Shatswell Estate | **1,483.00** |
| 50109 | 10/1/21 | *****7079 | Federal D Glover | **1,834.00** |
| 50110 | 10/1/21 | *****6137 | Guild Mortgage<br>Loan # 503-2003900 | **2,458.00** |
| 50111 | 10/1/21 | *****0348 | Hartz Property Management | **1,694.00** |
| 50112 | 10/1/21 | *****1057 | Diamond Hillside Apartments | **3,274.00** |
| 50113 | 10/1/21 | *****2959 | San Francisco Housing Authority | **2,599.14** |
| 50114 | 10/1/21 | *****0978 | King County Housing Authority | **1,070.90** |
| 50115 | 10/1/21 | *****3941 | Steven Lau | **2,364.00** |

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|---|---|---|---|---|---|---|
| | 50116 | 10/1/21 | *****4593 | Miaogen Lu | | **2,725.00** |
| | 50117 | 10/1/21 | *****3124 | Dante McDonald | | **1,127.00** |
| | 50118 | 10/1/21 | *****4305 | Darryl H. Milburn | | **1,789.00** |
| | 50119 | 10/1/21 | *****2593 | Ba Nguyen<br>Thu Thi Ngo | | **1,963.00** |
| | 50120 | 10/1/21 | *****9182 | Lorene Paysinger | | **1,816.00** |
| | 50121 | 10/1/21 | *****7243 | Linda Phon | | **1,480.00** |
| | 50122 | 10/1/21 | *****7605 | Portofino Apartments | | **2,319.00** |
| | 50123 | 10/1/21 | *****2839 | Salmana S. Shah | | **1,781.00** |
| | 50124 | 10/1/21 | *****7396 | Sierra Pacific Properties | | **6,001.00** |
| | 50125 | 10/1/21 | *****8705 | Khalid Sultan | | **1,695.00** |
| | 50126 | 10/1/21 | *****8191 | Albert S Tam | | **1,256.00** |
| | 50127 | 10/1/21 | *****5770 | Ventana Rental Homes | | **1,855.00** |
| | 50128 | 10/1/21 | *****3239 | Veritel Homes LLC | | **759.00** |
| | 50129 | 10/1/21 | *****1355 | San Marcos Villas | | **1,419.00** |
| | 50130 | 10/1/21 | *****9322 | Western Upper Haight Street Apartments, LLC | | **3,513.00** |
| | 50131 | 10/1/21 | *****1102 | Ying Na Yeung | | **1,467.00** |
| | 50132 | 10/1/21 | *****1535 | Fanny Kao Huang | | **1,800.00** |
| | 50133 | 10/1/21 | *****7378 | Marina Heights Apartments, LP | | **21,245.00** |
| | 50134 | 10/1/21 | *****7378 | Marina Heights Apartments, LP | | **22,038.00** |
| | 50135 | 10/1/21 | *****7378 | Marina Heights Apartments, LP | | **6,890.00** |
| * | 10121001 | 10/1/21 | *****2626 | 9th Street Associates, LP | DD - ES | **5,806.00** |
| | 10121002 | 10/1/21 | *****0229 | Meerwais Abdiani | DD - ES | **926.00** |
| | 10121003 | 10/1/21 | *****8167 | ABJ Enterprises, Inc. dba Blue Line Property Management | DD - ES | **17,142.00** |
| | 10121004 | 10/1/21 | *****9050 | Leonda R Addison | DD - ES | **2,103.00** |
| | 10121005 | 10/1/21 | *****7139 | Amitabh Agrawal | DD - ES | **1,557.00** |
| | 10121006 | 10/1/21 | *****6232 | Rosario Aguilar | DD - ES | **1,117.00** |
| | 10121007 | 10/1/21 | *****5759 | Rosa Aguirre | DD - ES | **2,071.00** |
| | 10121008 | 10/1/21 | *****9530 | Demetrius Alexander | DD - ES | **1,751.00** |
| | 10121009 | 10/1/21 | *****5726 | Jane Alexander | DD - ES | **821.00** |
| | 10121010 | 10/1/21 | *****9681 | Dale Alvarez | DD - ES | **1,675.00** |
| | 10121011 | 10/1/21 | *****0104 | Cecilia Anderson | DD - ES | **1,974.00** |
| | 10121012 | 10/1/21 | *****9111 | Shawn Anderson | DD - ES | **2,233.00** |
| | 10121013 | 10/1/21 | *****5423 | Anisa Ebadi | DD - ES | **2,540.00** |
| | 10121014 | 10/1/21 | *****5951 | Stoneman Apartments | DD - ES | **31,041.00** |
| | 10121015 | 10/1/21 | *****5951 | Stoneman Apartments | DD - ES | **10,954.00** |
| | 10121016 | 10/1/21 | *****8701 | Mariteresa Arenson<br>c/o Select 1 Realty | DD - ES | **2,008.00** |
| | 10121017 | 10/1/21 | *****0536 | Farideh Assad | DD - ES | **1,981.00** |

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| 10121018 | 10/1/21 | *****0707 | Sergeant or Sima Austin | DD - ES | **1,148.00** |
| 10121019 | 10/1/21 | *****4941 | Shruti Motilal Ba-Harani | DD - ES | **2,199.00** |
| 10121020 | 10/1/21 | *****2764 | Mel L. Banagan | DD - ES | **1,714.00** |
| 10121021 | 10/1/21 | *****4138 | Carlos G. Barraza | DD - ES | **820.00** |
| 10121022 | 10/1/21 | *****3909 | Ken Bartlett | DD - ES | **1,446.00** |
| 10121023 | 10/1/21 | *****1494 | Donald Scott Barbour | DD - ES | **2,627.00** |
| 10121024 | 10/1/21 | *****7563 | John Charles Bautista | DD - ES | **1,939.00** |
| 10121025 | 10/1/21 | *****3637 | Christine Becerra | DD - ES | **1,175.00** |
| 10121026 | 10/1/21 | *****9093 | Holly A Hawkins | DD - ES | **7,093.00** |
| 10121027 | 10/1/21 | *****8614 | Charles Bell and Camino Johnson-Bell | DD - ES | **1,815.00** |
| 10121028 | 10/1/21 | *****2521 | Belmont Apartments | DD - ES | **27,128.40** |
| 10121029 | 10/1/21 | *****2521 | Belmont Apartments | DD - ES | **31,714.00** |
| 10121030 | 10/1/21 | *****2521 | Belmont Apartments | DD - ES | **31,381.00** |
| 10121031 | 10/1/21 | *****2521 | Belmont Apartments | DD - ES | **1,184.00** |
| 10121032 | 10/1/21 | *****5996 | Alex Benjamen | DD - ES | **934.00** |
| 10121033 | 10/1/21 | *****6465 | Tennyson Berry | DD - ES | **1,643.00** |
| 10121034 | 10/1/21 | *****8634 | Bethel Global Development LLC | DD - ES | **2,403.00** |
| 10121035 | 10/1/21 | *****2209 | Gina Bhatia | DD - ES | **2,805.00** |
| 10121036 | 10/1/21 | *****7075 | Som N Bhatia | DD - ES | **4,723.00** |
| 10121037 | 10/1/21 | *****0602 | Pinakin Bhatt | DD - ES | **2,443.00** |
| 10121038 | 10/1/21 | *****8470 | Joseph B. Bachir | DD - ES | **1,605.00** |
| 10121039 | 10/1/21 | *****5924 | Steven Booras | DD - ES | **2,265.00** |
| 10121040 | 10/1/21 | *****1438 | 2018-2 IH Borrower LP | DD - ES | **2,114.00** |
| 10121041 | 10/1/21 | *****2439 | Rosie M Boyd | DD - ES | **2,698.00** |
| 10121042 | 10/1/21 | *****8847 | Victoria Boyko | DD - ES | **2,051.00** |
| 10121043 | 10/1/21 | *****3037 | Kelly Ann Bradford | DD - ES | **1,441.00** |
| 10121044 | 10/1/21 | *****7855 | Mariya Briggs | DD - ES | **3,081.00** |
| 10121045 | 10/1/21 | *****6215 | Janet Brown | DD - ES | **2,020.64** |
| 10121046 | 10/1/21 | *****7469 | Jessica G. Platt | DD - ES | **1,477.00** |
| 10121047 | 10/1/21 | *****9783 | Lauren H Brown | DD - ES | **1,768.00** |
| 10121048 | 10/1/21 | *****9954 | Blue Sapphire Homes, Inc. | DD - ES | **2,589.00** |
| 10121049 | 10/1/21 | *****2142 | Huong T. Bui | DD - ES | **4,200.00** |
| 10121050 | 10/1/21 | *****4042 | Donnell I. Carson | DD - ES | **1,863.00** |
| 10121051 | 10/1/21 | *****5079 | Castle Creek Company, Inc. | DD - ES | **1,528.00** |
| | | | Trust Account | | |
| 10121052 | 10/1/21 | *****6006 | Christopher Todd Chambers | DD - ES | **2,150.00** |
| 10121053 | 10/1/21 | *****6869 | Cora Ann Chambers | DD - ES | **745.00** |
| 10121054 | 10/1/21 | *****5571 | P. M. Chaobal | DD - ES | **2,165.00** |
| 10121055 | 10/1/21 | *****9661 | Chao Chen | DD - ES | **450.00** |
| 10121056 | 10/1/21 | *****1853 | Hong Chen | DD - ES | **4,754.00** |

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| 10121057 | 10/1/21 | *****8946 | Jienlin Chen | DD - ES | **4,927.00** |
| 10121058 | 10/1/21 | *****4714 | Wenhua Chen | DD - ES | **2,361.00** |
| 10121059 | 10/1/21 | *****5473 | Hwa-Yoong Chiu | DD - ES | **2,467.00** |
| 10121060 | 10/1/21 | *****3211 | Ada Choi | DD - ES | **2,556.00** |
| 10121061 | 10/1/21 | *****2454 | Chun Ok Choi | DD - ES | **3,794.00** |
| 10121062 | 10/1/21 | *****7759 | Michele Choi | DD - ES | **2,291.00** |
| 10121063 | 10/1/21 | *****2433 | Chau Chung | DD - ES | **2,632.00** |
| 10121064 | 10/1/21 | *****0310 | City of Pittsburg Housing Authority | DD - ES | **3,922.00** |
| 10121065 | 10/1/21 | *****3591 | Juan F. Clara | DD - ES | **1,373.00** |
| 10121066 | 10/1/21 | *****1362 | College Park Housing Authority | DD - ES | **1,023.53** |
| 10121067 | 10/1/21 | *****0855 | Adolph Rudolph Cortesi III | DD - ES | **1,670.00** |
| 10121068 | 10/1/21 | *****5708 | David Elmer Cortesi | DD - ES | **1,311.00** |
| 10121069 | 10/1/21 | *****0746 | Contra Costa County Housing Authority | DD - ES | **1,125.14** |
| 10121070 | 10/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **30,592.00** |
| 10121071 | 10/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **31,345.00** |
| 10121072 | 10/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **11,143.00** |
| 10121073 | 10/1/21 | *****6569 | Jeannette D. Crespo | DD - ES | **2,522.00** |
| 10121074 | 10/1/21 | *****7900 | Patricia Crosby | DD - ES | **1,664.00** |
| 10121075 | 10/1/21 | *****3327 | Jorge Robert Dagys Delevan<br>Catty Leticia Pajoluk | DD - ES | **1,739.00** |
| 10121076 | 10/1/21 | *****6248 | Justin Dailey | DD - ES | **1,509.00** |
| 10121077 | 10/1/21 | *****1622 | Dam Quang To | DD - ES | **2,721.00** |
| 10121078 | 10/1/21 | *****0793 | Danica J. French Evans | DD - ES | **1,714.00** |
| 10121079 | 10/1/21 | *****2963 | Audrey Davis | DD - ES | **1,348.00** |
| 10121080 | 10/1/21 | *****0396 | Kesha E. Davis | DD - ES | **1,091.00** |
| 10121081 | 10/1/21 | *****8929 | Kevin Davidson | DD - ES | **1,252.00** |
| 10121082 | 10/1/21 | *****4961 | Paulette Davis | DD - ES | **1,633.00** |
| 10121083 | 10/1/21 | *****6115 | Roshan M. Davis | DD - ES | **1,429.00** |
| 10121084 | 10/1/21 | *****9068 | Jagdeep or Shashi Dayal | DD - ES | **3,685.00** |
| 10121085 | 10/1/21 | *****2031 | Wayman Dea | DD - ES | **1,825.00** |
| 10121086 | 10/1/21 | *****8370 | Charles Dellamore | DD - ES | **1,850.00** |
| 10121087 | 10/1/21 | *****5882 | David De La Torre | DD - ES | **1,757.00** |
| 10121088 | 10/1/21 | *****1004 | Brigitte P. Doan | DD - ES | **5,560.00** |
| 10121089 | 10/1/21 | *****3531 | Anna Phuongnam Thi Do | DD - ES | **4,621.00** |
| 10121090 | 10/1/21 | *****9716 | JoAnn or Larry Domina | DD - ES | **1,390.00** |
| 10121091 | 10/1/21 | *****5568 | Ester Coleman Dunlap | DD - ES | **1,481.00** |
| 10121092 | 10/1/21 | *****5326 | Tyrone W. Duncan | DD - ES | **1,756.00** |
| 10121093 | 10/1/21 | *****6538 | Linda Duong | DD - ES | **1,345.00** |

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| 10121094 | 10/1/21 | *****3406 | Mercy Housing California XXXVIII<br>East Leland Court Apartments | DD - ES | **2,410.00** |
| 10121095 | 10/1/21 | *****0372 | Doris Engle Family Ltd Partnership<br>c/o Select 1 Realty | DD - ES | **1,313.00** |
| 10121096 | 10/1/21 | *****3757 | Alma B Espiritu | DD - ES | **2,078.00** |
| 10121097 | 10/1/21 | *****4023 | Johnathan Espinoza | DD - ES | **1,486.00** |
| 10121098 | 10/1/21 | *****8122 | Gerardo M. Esquivel | DD - ES | **1,154.00** |
| 10121099 | 10/1/21 | *****6027 | Jianxin Fang | DD - ES | **5,235.00** |
| 10121100 | 10/1/21 | *****1830 | Xiangfang Li | DD - ES | **2,779.00** |
| 10121101 | 10/1/21 | *****3602 | Favian M. Wong | DD - ES | **2,290.00** |
| 10121102 | 10/1/21 | *****3835 | Michael Mao<br>C/O Jing Feng | DD - ES | **2,851.00** |
| 10121103 | 10/1/21 | *****2790 | Barbara J. Fierner | DD - ES | **1,775.00** |
| 10121104 | 10/1/21 | *****9447 | Joseph Field | DD - ES | **1,137.00** |
| 10121105 | 10/1/21 | *****7691 | Hernan Roberto Figueroa | DD - ES | **1,570.00** |
| 10121106 | 10/1/21 | *****0962 | Tochia D. Brewster Fleeton | DD - ES | **1,452.00** |
| 10121107 | 10/1/21 | *****5773 | Alexander Flowers | DD - ES | **1,333.00** |
| 10121108 | 10/1/21 | *****4032 | Fox Creek Apartments | DD - ES | **26,018.00** |
| 10121109 | 10/1/21 | *****4032 | Fox Creek Apartments | DD - ES | **4,242.00** |
| 10121110 | 10/1/21 | *****0284 | Monica Fraga | DD - ES | **1,775.00** |
| 10121111 | 10/1/21 | *****6894 | Rejois O Frazier | DD - ES | **3,852.00** |
| 10121112 | 10/1/21 | *****6265 | Mr. Darren Fuller | DD - ES | **1,539.00** |
| 10121113 | 10/1/21 | *****8997 | Fan Fuller | DD - ES | **1,712.00** |
| 10121114 | 10/1/21 | *****9634 | Gialene Gaines | DD - ES | **2,050.00** |
| 10121115 | 10/1/21 | *****9590 | Aminifu Gamba | DD - ES | **2,677.00** |
| 10121116 | 10/1/21 | *****2189 | Kelly Yu Min Gao | DD - ES | **2,331.00** |
| 10121117 | 10/1/21 | *****6981 | Adraine Gardner | DD - ES | **1,466.00** |
| 10121118 | 10/1/21 | *****4278 | Antoinette L Garcia | DD - ES | **1,212.00** |
| 10121119 | 10/1/21 | *****7036 | David Gardner | DD - ES | **3,364.00** |
| 10121120 | 10/1/21 | *****0785 | Rupesh Garg | DD - ES | **2,377.00** |
| 10121121 | 10/1/21 | *****2931 | William H. Gardiner | DD - ES | **2,204.00** |
| 10121122 | 10/1/21 | *****5111 | Gateway Apartments | DD - ES | **5,789.00** |
| 10121123 | 10/1/21 | *****5298 | Parvindokht Ghaboulidashti | DD - ES | **1,110.00** |
| 10121124 | 10/1/21 | *****2770 | Eva Gholson | DD - ES | **1,738.00** |
| 10121125 | 10/1/21 | *****1145 | Vernon or Eva Gholson | DD - ES | **2,660.00** |
| 10121126 | 10/1/21 | *****5958 | Jacqueline Gill | DD - ES | **1,486.00** |
| 10121127 | 10/1/21 | *****3566 | Mahavir Gill<br>Mahavir S Gill Sr | DD - ES | **5,077.00** |
| 10121128 | 10/1/21 | *****8187 | Sukpran Gill | DD - ES | **1,483.00** |
| 10121129 | 10/1/21 | *****6084 | Gold A and S LLC | DD - ES | **2,456.00** |
| 10121130 | 10/1/21 | *****6208 | Hadiya A Gomez | DD - ES | **846.00** |
| 10121131 | 10/1/21 | *****3032 | Jesse Gonzaga | DD - ES | **2,277.00** |

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| 10121132 | 10/1/21 | *****2367 | Ting Gong | DD - ES | **2,163.00** |
| 10121133 | 10/1/21 | *****6940 | Frances Greene | DD - ES | **2,676.00** |
| 10121134 | 10/1/21 | *****4872 | Rodney Green | DD - ES | **935.00** |
| 10121135 | 10/1/21 | *****3361 | Rupinder Grewal | DD - ES | **2,972.00** |
| 10121136 | 10/1/21 | *****7325 | Patricia Gridley | DD - ES | **760.50** |
| 10121137 | 10/1/21 | *****6305 | Italo Grossi | DD - ES | **1,595.00** |
| 10121138 | 10/1/21 | *****6721 | Amparo Guardado<br>Cesar Q. Guardado | DD - ES | **1,406.00** |
| 10121139 | 10/1/21 | *****0940 | Krystle Guan | DD - ES | **4,076.00** |
| 10121140 | 10/1/21 | *****5987 | Bob Gunson Real Estate<br>C/O Julie Hang | DD - ES | **1,359.00** |
| 10121141 | 10/1/21 | *****5267 | Abhilash Gupta | DD - ES | **2,421.00** |
| 10121142 | 10/1/21 | *****7930 | Donald R. Watson, Sr. | DD - ES | **878.00** |
| 10121143 | 10/1/21 | *****2314 | Nicole Hackett | DD - ES | **1,488.00** |
| 10121144 | 10/1/21 | *****6176 | Asharfun Nisha Hafiz | DD - ES | **1,597.00** |
| 10121145 | 10/1/21 | *****0457 | Jeffrey Paul Hagler | DD - ES | **5,558.00** |
| 10121146 | 10/1/21 | *****9827 | Delores Jane Hall | DD - ES | **1,712.00** |
| 10121147 | 10/1/21 | *****6228 | David L Hart | DD - ES | **1,939.00** |
| 10121148 | 10/1/21 | *****1769 | Lawrence Harrold | DD - ES | **6,467.00** |
| 10121149 | 10/1/21 | *****7423 | Delta Hawaii Garden Apartments LLC | DD - ES | **9,241.00** |
| 10121150 | 10/1/21 | *****5859 | Chuanhu He | DD - ES | **1,911.00** |
| 10121151 | 10/1/21 | *****0855 | Ji Yuan He | DD - ES | **2,026.00** |
| 10121152 | 10/1/21 | *****6728 | David T. Hennigan | DD - ES | **17,070.00** |
| 10121153 | 10/1/21 | *****3097 | Silvester C. Henderson | DD - ES | **3,228.00** |
| 10121154 | 10/1/21 | *****2157 | Elias Herrera | DD - ES | **363.00** |
| 10121155 | 10/1/21 | *****1603 | Marva Hill | DD - ES | **357.00** |
| 10121156 | 10/1/21 | *****3207 | Chainchal Hira | DD - ES | **2,032.00** |
| 10121157 | 10/1/21 | *****6255 | Carl E. Hoard II | DD - ES | **1,319.00** |
| 10121158 | 10/1/21 | *****7386 | Hanh Huu Hoang | DD - ES | **2,803.00** |
| 10121159 | 10/1/21 | *****5654 | Havy S Hoag | DD - ES | **3,096.00** |
| 10121160 | 10/1/21 | *****4106 | Albert Ho | DD - ES | **1,746.00** |
| 10121161 | 10/1/21 | *****8576 | Joyce Ann Hoffman | DD - ES | **1,316.00** |
| 10121162 | 10/1/21 | *****4543 | Ronald G. Holmes | DD - ES | **1,360.00** |
| 10121163 | 10/1/21 | *****7987 | SRH Holdings LLC | DD - ES | **3,342.00** |
| 10121164 | 10/1/21 | *****2768 | Invitation Homes | DD - ES | **7,210.00** |
| 10121165 | 10/1/21 | *****5700 | Tony Ho | DD - ES | **1,367.00** |
| 10121166 | 10/1/21 | *****9956 | Cheng Huang | DD - ES | **2,794.00** |
| 10121167 | 10/1/21 | *****8816 | Ming Zin Huang | DD - ES | **2,860.00** |
| 10121168 | 10/1/21 | *****7984 | Tao Huang | DD - ES | **7,045.00** |
| 10121169 | 10/1/21 | *****7838 | Xia Jing Huang | DD - ES | **2,586.00** |
| 10121170 | 10/1/21 | *****9084 | Nancy Xiu Zhen Hu | DD - ES | **1,745.00** |

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| 10121171 | 10/1/21 | *****6229 | Thinh Trieu Huynh | DD - ES | **2,400.00** |
| 10121172 | 10/1/21 | *****0778 | IGreen House Inc. | DD - ES | **910.00** |
| 10121173 | 10/1/21 | *****7951 | IH5 Property West LP | DD - ES | **3,228.00** |
| 10121174 | 10/1/21 | *****8323 | Keyee Investment LLC | DD - ES | **1,451.00** |
| 10121175 | 10/1/21 | *****1017 | LaShon D Irving | DD - ES | **1,991.00** |
| 10121176 | 10/1/21 | *****6821 | Michael or Kay Isola | DD - ES | **2,319.00** |
| 10121177 | 10/1/21 | *****4913 | Jabbarr Love | DD - ES | **1,891.00** |
| 10121178 | 10/1/21 | *****2036 | Brandi Jackson<br>c/o Perry Realty Team | DD - ES | **2,165.00** |
| 10121179 | 10/1/21 | *****1075 | Consuelo Marie Jackson | DD - ES | **2,920.00** |
| 10121180 | 10/1/21 | *****5120 | Deepika Sameer Jain | DD - ES | **5,146.00** |
| 10121181 | 10/1/21 | *****4910 | Sameer Jain | DD - ES | **7,875.00** |
| 10121182 | 10/1/21 | *****3307 | Vishal S. Jain | DD - ES | **1,157.00** |
| 10121183 | 10/1/21 | *****1349 | Jason Le | DD - ES | **2,611.00** |
| 10121184 | 10/1/21 | *****6917 | Jian Xing Zhang | DD - ES | **1,486.00** |
| 10121185 | 10/1/21 | *****3090 | Krystal Johnson | DD - ES | **1,942.00** |
| 10121186 | 10/1/21 | *****8569 | Ronita Johnson | DD - ES | **1,480.00** |
| 10121187 | 10/1/21 | *****8867 | James Jones | DD - ES | **1,486.00** |
| 10121188 | 10/1/21 | *****2434 | Sharon Jones | DD - ES | **1,923.00** |
| 10121189 | 10/1/21 | *****4905 | Mostaeen B Jouya | DD - ES | **1,700.00** |
| 10121190 | 10/1/21 | *****5647 | Om Parkash Kalra | DD - ES | **3,231.00** |
| 10121191 | 10/1/21 | *****8425 | Wei Kang | DD - ES | **4,767.00** |
| 10121192 | 10/1/21 | *****7429 | Navkirandeep Kaur | DD - ES | **2,163.00** |
| 10121193 | 10/1/21 | *****5248 | KC Prime LLC | DD - ES | **2,050.00** |
| 10121194 | 10/1/21 | *****6180 | K. E. M. Group LLC | DD - ES | **1,830.00** |
| 10121195 | 10/1/21 | *****9411 | Anthony Keslinke | DD - ES | **3,512.00** |
| 10121196 | 10/1/21 | *****6230 | Kevin Moffett | DD - ES | **2,318.00** |
| 10121197 | 10/1/21 | *****2578 | Faraz Ali Khan | DD - ES | **1,436.00** |
| 10121198 | 10/1/21 | *****0888 | KW Kirker Creek, LLC | DD - ES | **3,021.00** |
| 10121199 | 10/1/21 | *****9221 | John N Kitta | DD - ES | **2,784.00** |
| 10121200 | 10/1/21 | *****7475 | Qi Yun Kuang | DD - ES | **6,293.00** |
| 10121201 | 10/1/21 | *****8506 | Simon Kailiang Kuang | DD - ES | **1,659.00** |
| 10121202 | 10/1/21 | *****9316 | Zdzislaw Kujawa | DD - ES | **1,335.00** |
| 10121203 | 10/1/21 | *****2585 | Daniel Kwan | DD - ES | **3,371.00** |
| 10121204 | 10/1/21 | *****8326 | Thomas LaFleur | DD - ES | **1,480.00** |
| 10121205 | 10/1/21 | *****7845 | Chow Kang Lam | DD - ES | **1,415.00** |
| 10121206 | 10/1/21 | *****6520 | Shirley Manly-Lampkin | DD - ES | **1,051.00** |
| 10121207 | 10/1/21 | *****7975 | Peter C. Larsen | DD - ES | **1,454.00** |
| 10121208 | 10/1/21 | *****2401 | Kevin Lassair<br>Terrilyn Lassair | DD - ES | **1,175.00** |
| 10121209 | 10/1/21 | *****4732 | Latif, LLC | DD - ES | **2,628.00** |

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| 10121210 | 10/1/21 | *****2293 | LCSTAR, LLC | DD - ES | **4,910.00** |
| 10121211 | 10/1/21 | *****0984 | Dao Tran Le | DD - ES | **2,018.00** |
| 10121212 | 10/1/21 | *****8548 | Jack Wai Lee | DD - ES | **2,370.00** |
| 10121213 | 10/1/21 | *****1755 | Siu Wan Windytiti Lee | DD - ES | **2,232.00** |
| 10121214 | 10/1/21 | *****2527 | Steven Lee | DD - ES | **1,664.00** |
| 10121215 | 10/1/21 | *****5289 | Yuhjen Juang Lee | DD - ES | **1,899.00** |
| 10121216 | 10/1/21 | *****7087 | Huy Nguyen Le | DD - ES | **2,461.00** |
| 10121217 | 10/1/21 | *****1860 | Lena Le | DD - ES | **806.00** |
| 10121218 | 10/1/21 | *****3782 | Joseph C. Lerma | DD - ES | **1,420.00** |
| 10121219 | 10/1/21 | *****3555 | Yiping I. and Frederic Leroudier | DD - ES | **1,298.00** |
| 10121220 | 10/1/21 | *****3410 | John M. Leung | DD - ES | **8,014.00** |
| 10121221 | 10/1/21 | *****3743 | May Leung or Rodney Chen | DD - ES | **3,770.00** |
| 10121222 | 10/1/21 | *****2110 | Peter Leung | DD - ES | **2,499.00** |
| 10121223 | 10/1/21 | *****3386 | James J. Busby and Irvin Deutcher a Partnership DBA Crestview Apartments | DD - ES | **8,085.00** |
| 10121224 | 10/1/21 | *****0416 | Faqiang Li | DD - ES | **2,449.00** |
| 10121225 | 10/1/21 | *****8871 | Jie Li | DD - ES | **1,762.00** |
| 10121226 | 10/1/21 | *****7827 | Jinhuan Li | DD - ES | **1,505.00** |
| 10121227 | 10/1/21 | *****9346 | Joshua Li | DD - ES | **492.00** |
| 10121228 | 10/1/21 | *****2649 | Tim Lindstrom<br>c/o AAA Property Management | DD - ES | **1,166.00** |
| 10121229 | 10/1/21 | *****3881 | Vivian Y Li | DD - ES | **1,226.00** |
| 10121230 | 10/1/21 | *****0050 | Wei Min Li | DD - ES | **1,062.00** |
| 10121231 | 10/1/21 | *****9003 | Ying Hong Li | DD - ES | **1,335.00** |
| 10121232 | 10/1/21 | *****0198 | Belkis Zhong Li | DD - ES | **2,596.00** |
| 10121233 | 10/1/21 | *****1646 | Paul Long | DD - ES | **2,001.00** |
| 10121234 | 10/1/21 | *****1474 | Los Medanos Village Apartments | DD - ES | **14,210.00** |
| 10121235 | 10/1/21 | *****7531 | Tony or Yvonne Louie | DD - ES | **1,425.00** |
| 10121236 | 10/1/21 | *****3708 | Anthony Charles Loyola | DD - ES | **547.00** |
| 10121237 | 10/1/21 | *****7720 | Jose Loza | DD - ES | **883.00** |
| 10121238 | 10/1/21 | *****2354 | Andrew Kin Lui | DD - ES | **2,383.00** |
| 10121239 | 10/1/21 | *****4658 | Wei Liu<br>Guangxin Frank Liu | DD - ES | **1,482.00** |
| 10121240 | 10/1/21 | *****7843 | The Entrust Group, Inc. FBO Theodore Lum IRA (acct #34892) | DD - ES | **721.00** |
| 10121241 | 10/1/21 | *****1821 | Curtis H. Lundberg | DD - ES | **555.00** |
| 10121242 | 10/1/21 | *****1494 | Xiangwen Lu | DD - ES | **4,962.00** |
| 10121243 | 10/1/21 | *****2147 | Chi Vien Ly | DD - ES | **1,301.00** |
| 10121244 | 10/1/21 | *****6525 | Madelyn Ann Massey<br>Trustee of the 2017 Massey Family Trust | DD - ES | **1,527.00** |
| 10121245 | 10/1/21 | *****5865 | Rakesh Madra | DD - ES | **3,152.00** |
| 10121246 | 10/1/21 | *****2191 | Radha Mahesram | DD - ES | **2,176.00** |

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| 10121247 | 10/1/21 | *****7358 | Mahnoor Tariq | DD - ES | **2,452.00** |
| 10121248 | 10/1/21 | *****4372 | Jennifer Leung Ma | DD - ES | **3,662.00** |
| 10121249 | 10/1/21 | *****1989 | Jeff Mann | DD - ES | **7,114.00** |
| 10121250 | 10/1/21 | *****5378 | Glenn Marshall | DD - ES | **2,403.00** |
| 10121251 | 10/1/21 | *****2875 | Marla Y Harrison | DD - ES | **527.00** |
| 10121252 | 10/1/21 | *****4697 | Elisa Aurora Martinez | DD - ES | **2,746.00** |
| 10121253 | 10/1/21 | *****9206 | Demetria d Mason | DD - ES | **2,624.00** |
| 10121254 | 10/1/21 | *****9994 | Matthew Lui | DD - ES | **1,647.00** |
| 10121255 | 10/1/21 | *****6768 | Matrixone Realty | DD - ES | **1,036.00** |
| 10121256 | 10/1/21 | *****5255 | Helen McCarthy | DD - ES | **1,933.00** |
| 10121257 | 10/1/21 | *****1152 | Janice K McLean | DD - ES | **372.00** |
| 10121258 | 10/1/21 | *****4675 | Meadow Glen Apartments | DD - ES | **1,918.00** |
| 10121259 | 10/1/21 | *****9866 | Tatung Mei | DD - ES | **3,564.00** |
| 10121260 | 10/1/21 | *****5245 | Jinyu Meng | DD - ES | **1,653.00** |
| 10121261 | 10/1/21 | *****4885 | Sabine Menzel | DD - ES | **3,709.00** |
| 10121262 | 10/1/21 | *****0133 | Mercedes P. Johnson | DD - ES | **617.00** |
| 10121263 | 10/1/21 | *****8272 | Hector Meza | DD - ES | **932.00** |
| 10121264 | 10/1/21 | *****9885 | Andrew S Miloslavich | DD - ES | **1,904.00** |
| 10121265 | 10/1/21 | *****7437 | Perchak Properties for Carol Miller | DD - ES | **2,244.00** |
| 10121266 | 10/1/21 | *****4000 | Millennium Homes | DD - ES | **2,012.00** |
| 10121267 | 10/1/21 | *****9782 | Maryann Miller | DD - ES | **1,856.00** |
| 10121268 | 10/1/21 | *****2618 | Carlos J Miranda | DD - ES | **660.00** |
| 10121269 | 10/1/21 | *****0772 | Hassan Mirabedi | DD - ES | **7,892.00** |
| 10121270 | 10/1/21 | *****6741 | Gwendolyn Mitchell | DD - ES | **4,351.00** |
| 10121271 | 10/1/21 | *****0985 | Rodney Montgomery<br>or Sharon Montgomery | DD - ES | **1,447.00** |
| 10121272 | 10/1/21 | *****4676 | Erik L Morris | DD - ES | **1,874.00** |
| 10121273 | 10/1/21 | *****3624 | Diane Morin | DD - ES | **1,990.00** |
| 10121274 | 10/1/21 | *****8820 | Brien Brothers, LLC<br>C/O Mynd Management, IC. | DD - ES | **803.00** |
| 10121275 | 10/1/21 | *****1388 | Mynd Management Inc, | DD - ES | **4,155.00** |
| 10121276 | 10/1/21 | *****0105 | Ehsan Nabkel | DD - ES | **3,552.00** |
| 10121277 | 10/1/21 | *****6234 | Shinder Paul Narabut | DD - ES | **6,828.00** |
| 10121278 | 10/1/21 | *****0054 | NC Associates, Inc. | DD - ES | **16,800.00** |
| 10121279 | 10/1/21 | *****9180 | Michael Nelson | DD - ES | **2,938.00** |
| 10121280 | 10/1/21 | *****5257 | Guy Nesbeth | DD - ES | **1,741.00** |
| 10121281 | 10/1/21 | *****1072 | Dominic Y Ng | DD - ES | **2,857.00** |
| 10121282 | 10/1/21 | *****3604 | Knowland Ging Ng | DD - ES | **4,033.00** |
| 10121283 | 10/1/21 | *****8594 | Patrick Ng<br>Mike Perry, Property Manager | DD - ES | **1,321.00** |
| 10121284 | 10/1/21 | *****0738 | Hieu Nguyen | DD - ES | **1,642.00** |
| 10121285 | 10/1/21 | *****7154 | Huy Quang Nguyen | DD - ES | **2,162.00** |

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| 10121286 | 10/1/21 | *****8307 | Mai Thi Thanh Nguyen | DD - ES | **1,925.00** |
| 10121287 | 10/1/21 | *****4366 | Quyen Nguyen | DD - ES | **1,857.00** |
| 10121288 | 10/1/21 | *****8241 | Tieu Nguyen | DD - ES | **688.00** |
| 10121289 | 10/1/21 | *****2660 | Nichole Nicholson | DD - ES | **2,500.00** |
| 10121290 | 10/1/21 | *****7265 | Ernest Nichols III | DD - ES | **3,323.00** |
| 10121291 | 10/1/21 | *****6497 | Peter Niloufari | DD - ES | **5,425.00** |
| 10121292 | 10/1/21 | *****8129 | Kevin Nord | DD - ES | **1,690.00** |
| 10121293 | 10/1/21 | *****0056 | Richard A Norte | DD - ES | **1,915.00** |
| 10121294 | 10/1/21 | *****2286 | North State Financial, Inc. | DD - ES | **1,094.00** |
| 10121295 | 10/1/21 | *****7171 | New Way Management Services, Inc. | DD - ES | **19,849.00** |
| 10121296 | 10/1/21 | *****0758 | Oakland Housing Authority | DD - ES | **173.49** |
| 10121297 | 10/1/21 | *****0056 | Sheryl O'Brien | DD - ES | **882.00** |
| 10121298 | 10/1/21 | *****1194 | Jennifer Odei | DD - ES | **1,434.00** |
| 10121299 | 10/1/21 | *****5572 | Dwight J Owens | DD - ES | **643.00** |
| 10121300 | 10/1/21 | *****1780 | Diane Oles | DD - ES | **1,694.00** |
| 10121301 | 10/1/21 | *****4543 | Esosa A. Omokaro | DD - ES | **1,932.00** |
| 10121302 | 10/1/21 | *****3741 | Sandra L Ortiz | DD - ES | **1,785.00** |
| 10121303 | 10/1/21 | *****1081 | Chinenye Osuagwu | DD - ES | **2,716.00** |
| 10121304 | 10/1/21 | *****9139 | Olubukola Amoke Oyebade | DD - ES | **2,517.00** |
| 10121305 | 10/1/21 | *****3324 | Mutlu Ozer | DD - ES | **2,577.00** |
| 10121306 | 10/1/21 | *****6009 | Diablo Pacific, Inc. | DD - ES | **3,297.00** |
| 10121307 | 10/1/21 | *****4083 | Pacific Living, LLC | DD - ES | **2,769.00** |
| 10121308 | 10/1/21 | *****7811 | Hemangini & Vijendra Patel | DD - ES | **2,800.00** |
| 10121309 | 10/1/21 | *****0885 | Kokila Patel | DD - ES | **787.00** |
| 10121310 | 10/1/21 | *****0346 | Patiala, LLC<br>Deepinder Kaur or Ajay Singh | DD - ES | **1,282.00** |
| 10121311 | 10/1/21 | *****8684 | Virendra M. Patel | DD - ES | **574.00** |
| 10121312 | 10/1/21 | *****8047 | Jason Pauline | DD - ES | **1,760.00** |
| 10121313 | 10/1/21 | *****3189 | Loycell Peacock | DD - ES | **1,391.00** |
| 10121314 | 10/1/21 | *****5165 | Scott Pease | DD - ES | **1,272.00** |
| 10121315 | 10/1/21 | *****8805 | Alonso R. Perez | DD - ES | **1,486.00** |
| 10121316 | 10/1/21 | *****3278 | Maria Del Carmen Perez | DD - ES | **603.00** |
| 10121317 | 10/1/21 | *****6784 | Lowde Y. Perkins | DD - ES | **922.00** |
| 10121318 | 10/1/21 | *****4893 | Cong Thi Pham | DD - ES | **1,922.00** |
| 10121319 | 10/1/21 | *****5884 | May K. Pho | DD - ES | **2,583.00** |
| 10121320 | 10/1/21 | *****0958 | Pittsburg Park Apartments | DD - ES | **2,952.00** |
| 10121321 | 10/1/21 | *****2744 | SK Pittsburg Bay Point<br>SK Pittsburg Bay Point | DD - ES | **1,458.00** |
| 10121322 | 10/1/21 | *****1097 | Bay Point Orphans Fund, LLC | DD - ES | **1,712.00** |
| 10121323 | 10/1/21 | *****8826 | Prime Metropolis Properties, Inc. | DD - ES | **2,486.00** |
| 10121324 | 10/1/21 | *****2849 | IH5 Property West LP | DD - ES | **1,769.00** |

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| 10121325 | 10/1/21 | *****3398 | Marples Property Management | DD - ES | **1,700.00** |
| 10121326 | 10/1/21 | *****4650 | A. Meadows Property Management | DD - ES | **3,249.00** |
| 10121327 | 10/1/21 | *****6551 | Parks Properties | DD - ES | **1,711.00** |
| 10121328 | 10/1/21 | *****7789 | Stokley Properties LLC Harbor | DD - ES | **3,174.00** |
| 10121329 | 10/1/21 | *****8055 | Property Upsurge, Inc. | DD - ES | **4,252.00** |
| 10121330 | 10/1/21 | *****0782 | Amjad Qaqish | DD - ES | **835.00** |
| 10121331 | 10/1/21 | *****9542 | Sam or Sonia Quinones | DD - ES | **1,800.00** |
| 10121332 | 10/1/21 | *****4029 | Amos Radford | DD - ES | **1,387.00** |
| 10121333 | 10/1/21 | *****1034 | Kuljit P Raju | DD - ES | **1,819.00** |
| 10121334 | 10/1/21 | *****2261 | Paramjit K. Raju | DD - ES | **2,273.00** |
| 10121335 | 10/1/21 | *****3452 | Christopher Ramirez | DD - ES | **2,042.00** |
| 10121336 | 10/1/21 | *****8489 | Enrique or Stacy Ramirez | DD - ES | **1,177.00** |
| 10121337 | 10/1/21 | *****2162 | Erika Ramirez | DD - ES | **1,345.00** |
| 10121338 | 10/1/21 | *****2283 | Rohini Ram-Cline | DD - ES | **1,957.00** |
| 10121339 | 10/1/21 | *****6068 | David Raughton | DD - ES | **1,933.00** |
| 10121340 | 10/1/21 | *****8337 | RayCaro Inc. | DD - ES | **1,581.00** |
| 10121341 | 10/1/21 | *****8227 | Croskey Real Estate, Inc. | DD - ES | **1,605.00** |
| 10121342 | 10/1/21 | *****6703 | Amerasia Real Estate Fund LLC | DD - ES | **3,628.00** |
| 10121343 | 10/1/21 | *****7083 | Reliant - Woods Grove, LP | DD - ES | **23,068.00** |
| 10121344 | 10/1/21 | *****7349 | Eric Franklin Remson | DD - ES | **538.00** |
| 10121345 | 10/1/21 | *****9215 | Kameryn Victoria Ray | DD - ES | **1,964.00** |
| 10121346 | 10/1/21 | *****9321 | Roger Riley | DD - ES | **1,901.00** |
| 10121347 | 10/1/21 | *****4562 | Rising Investments LLC | DD - ES | **6,880.00** |
| 10121348 | 10/1/21 | *****4809 | Robert W. Daniels | DD - ES | **2,679.00** |
| 10121349 | 10/1/21 | *****0694 | Jason Ruffin | DD - ES | **2,504.00** |
| 10121350 | 10/1/21 | *****4579 | Elvira Ruiz | DD - ES | **1,746.00** |
| 10121351 | 10/1/21 | *****5248 | Constance Russell | DD - ES | **2,300.00** |
| 10121352 | 10/1/21 | *****3871 | Maridel P Santos | DD - ES | **1,649.00** |
| 10121353 | 10/1/21 | *****7615 | Gregory Paul Schulz | DD - ES | **1,188.00** |
| 10121354 | 10/1/21 | *****9954 | Richard M. Sciortino | DD - ES | **2,284.00** |
| 10121355 | 10/1/21 | *****7031 | Jacqueline Selinger | DD - ES | **1,897.00** |
| 10121356 | 10/1/21 | *****5346 | Young Sook Seroy | DD - ES | **1,566.00** |
| 10121357 | 10/1/21 | *****6765 | SETRC, LLC | DD - ES | **2,559.00** |
| 10121358 | 10/1/21 | *****1446 | Mohinder Sharma | DD - ES | **1,016.00** |
| 10121359 | 10/1/21 | *****7239 | Shailesh & Bela Patel | DD - ES | **1,212.00** |
| 10121360 | 10/1/21 | *****1357 | Mohammad Shekib | DD - ES | **1,939.00** |
| 10121361 | 10/1/21 | *****5981 | Yihui Shi | DD - ES | **1,535.00** |
| 10121362 | 10/1/21 | *****5994 | Shorten Investments LLC | DD - ES | **5,373.00** |
| 10121363 | 10/1/21 | *****7396 | Sierra Pacific Properties Inc<br>Sierra Pacific Properties Inc | DD - ES | **9,399.00** |
| 10121364 | 10/1/21 | *****7789 | Siena Court Apartments | DD - ES | **14,571.00** |

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| 10121365 | 10/1/21 | *****7396 | Sierra Pacific Properties<br>Peppertree Apartments | DD - ES | **4,513.00** |
| 10121366 | 10/1/21 | *****7396 | Sierra Pacific Properties<br>Woodland Hills Apartments | DD - ES | **27,123.00** |
| 10121367 | 10/1/21 | *****6650 | Frank M. Siino | DD - ES | **982.00** |
| 10121368 | 10/1/21 | *****8035 | Joseph Michael Siino | DD - ES | **1,530.00** |
| 10121369 | 10/1/21 | *****5399 | Gloria Silva | DD - ES | **506.00** |
| 10121370 | 10/1/21 | *****8407 | Marc J. Simpson | DD - ES | **1,688.00** |
| 10121371 | 10/1/21 | *****6058 | Son Singh | DD - ES | **1,500.00** |
| 10121372 | 10/1/21 | *****0700 | Crystal Situ | DD - ES | **1,270.00** |
| 10121373 | 10/1/21 | *****3853 | Lakesha Michelle Smith<br>Lionel R Smith | DD - ES | **1,975.00** |
| 10121374 | 10/1/21 | *****4970 | Molly Smith | DD - ES | **1,898.00** |
| 10121375 | 10/1/21 | *****9092 | Sherritta M Smith | DD - ES | **945.00** |
| 10121376 | 10/1/21 | *****2032 | Cinthia Sosa | DD - ES | **2,473.00** |
| 10121377 | 10/1/21 | *****6977 | Angela E. Robinson-Spencer | DD - ES | **2,131.00** |
| 10121378 | 10/1/21 | *****5343 | Deborah Steppe | DD - ES | **1,784.00** |
| 10121379 | 10/1/21 | *****5308 | Darice Streeter<br>c/o R R Rentals | DD - ES | **1,900.00** |
| 10121380 | 10/1/21 | *****8216 | Abby Sukarto | DD - ES | **1,964.00** |
| 10121381 | 10/1/21 | *****1808 | Jezzy Sukaemi | DD - ES | **2,564.00** |
| 10121382 | 10/1/21 | *****7479 | Ms. Li Su | DD - ES | **1,351.00** |
| 10121383 | 10/1/21 | *****1235 | Summit Venture Group, LLC | DD - ES | **2,701.00** |
| 10121384 | 10/1/21 | *****6168 | Kamaljeet Surila | DD - ES | **1,754.00** |
| 10121385 | 10/1/21 | *****0804 | Svetlana Kondratiouk | DD - ES | **3,040.00** |
| 10121386 | 10/1/21 | *****0399 | Joyce Hui Sy | DD - ES | **7,715.00** |
| 10121387 | 10/1/21 | *****3065 | Tasharie C. Ameral | DD - ES | **1,609.00** |
| 10121388 | 10/1/21 | *****6283 | Yun Teng<br>Weijie Zhang | DD - ES | **3,216.00** |
| 10121389 | 10/1/21 | *****9166 | Ms. Natasha Terry | DD - ES | **2,675.00** |
| 10121390 | 10/1/21 | *****2164 | Quyen Minh Thai | DD - ES | **2,875.00** |
| 10121391 | 10/1/21 | *****9314 | Silvia Thein and Ada Choi | DD - ES | **2,200.00** |
| 10121392 | 10/1/21 | *****7191 | Tequila Nashannon Thornton | DD - ES | **2,654.00** |
| 10121393 | 10/1/21 | *****4049 | ChingJen Tong | DD - ES | **2,229.00** |
| 10121394 | 10/1/21 | *****1714 | Yoway Wilson Tong | DD - ES | **1,486.00** |
| 10121395 | 10/1/21 | *****1405 | Lourdes or Raymond Tovar | DD - ES | **1,374.00** |
| 10121396 | 10/1/21 | *****2094 | Raphael Minhtuyen Tran | DD - ES | **3,025.00** |
| 10121397 | 10/1/21 | *****8623 | Richard Tran | DD - ES | **2,783.00** |
| 10121398 | 10/1/21 | *****1327 | Thuy Tran | DD - ES | **1,148.00** |
| 10121399 | 10/1/21 | *****6165 | Thanh Van Trinh | DD - ES | **1,422.00** |
| 10121400 | 10/1/21 | *****5313 | Sean Thuyet Truong | DD - ES | **1,094.00** |
| 10121401 | 10/1/21 | *****9321 | Van Truong | DD - ES | **1,717.00** |

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| | | | | | |
|---|---|---|---|---|---|
| 10121402 | 10/1/21 | *****6917 | Erica Uschold | DD - ES | **2,613.00** |
| 10121403 | 10/1/21 | *****4582 | Lidia Valladares | DD - ES | **1,169.00** |
| 10121404 | 10/1/21 | *****0250 | Victor D Valenzuela | DD - ES | **1,498.00** |
| 10121405 | 10/1/21 | *****3371 | Gary D. Vasconcellos | DD - ES | **1,550.00** |
| 10121406 | 10/1/21 | *****9682 | Nuno G Vieira | DD - ES | **4,328.00** |
| 10121407 | 10/1/21 | *****7391 | Kim Uyen Minh Vu | DD - ES | **1,239.00** |
| 10121408 | 10/1/21 | *****2720 | Stephen Cordell Wafer | DD - ES | **1,205.00** |
| 10121409 | 10/1/21 | *****6924 | Lining Wan | DD - ES | **2,578.00** |
| 10121410 | 10/1/21 | *****6945 | Wei Wang | DD - ES | **2,032.00** |
| 10121411 | 10/1/21 | *****1634 | Yu Ruo Wang | DD - ES | **1,781.00** |
| 10121412 | 10/1/21 | *****7593 | Ms. Brigitte Warren<br>C/O Perry Realty Team | DD - ES | **3,118.00** |
| 10121413 | 10/1/21 | *****5502 | Mildred Lucille Washington | DD - ES | **1,996.00** |
| 10121414 | 10/1/21 | *****4384 | Wenying Chang | DD - ES | **3,422.00** |
| 10121415 | 10/1/21 | *****5295 | Holly Wen | DD - ES | **651.00** |
| 10121416 | 10/1/21 | *****4908 | Lewis White & Ruth White<br>Elma Ruth White | DD - ES | **4,904.00** |
| 10121417 | 10/1/21 | *****6220 | Fenny Wijayanti | DD - ES | **1,690.00** |
| 10121418 | 10/1/21 | *****7867 | Ms Adrienne Wilson<br>C/O Gabe Essoe | DD - ES | **1,951.00** |
| 10121419 | 10/1/21 | *****5057 | Kathleen and John Wilson | DD - ES | **936.00** |
| 10121420 | 10/1/21 | *****8702 | Kathy D. Williams | DD - ES | **2,207.00** |
| 10121421 | 10/1/21 | *****5480 | Tasia La Vonda Williams | DD - ES | **2,564.00** |
| 10121422 | 10/1/21 | *****5026 | Windeler Development Group, Inc. | DD - ES | **999.00** |
| 10121423 | 10/1/21 | *****1157 | Har Pan Wong | DD - ES | **8,941.00** |
| 10121424 | 10/1/21 | *****6356 | Joanne Wong | DD - ES | **1,522.00** |
| 10121425 | 10/1/21 | *****1060 | Kinney Ming Wong | DD - ES | **508.00** |
| 10121426 | 10/1/21 | *****2784 | Vincent Wong | DD - ES | **1,818.00** |
| 10121427 | 10/1/21 | *****3962 | Hong Wu | DD - ES | **3,728.00** |
| 10121428 | 10/1/21 | *****3698 | Zhang Jin Wu | DD - ES | **2,701.00** |
| 10121429 | 10/1/21 | *****2556 | Drewcillia Wyatt | DD - ES | **3,942.00** |
| 10121430 | 10/1/21 | *****2651 | Sheree Wynn | DD - ES | **2,210.00** |
| 10121431 | 10/1/21 | *****4644 | Chao Xu | DD - ES | **2,940.00** |
| 10121432 | 10/1/21 | *****3880 | Ping Ping Xu<br>Keming Wang | DD - ES | **2,725.00** |
| 10121433 | 10/1/21 | *****5087 | Zhou Xu | DD - ES | **2,853.00** |
| 10121434 | 10/1/21 | *****4383 | Yifan Ye<br>Mike Perry, Property Manager | DD - ES | **2,512.00** |
| 10121435 | 10/1/21 | *****6779 | Sally Yip | DD - ES | **912.00** |
| 10121436 | 10/1/21 | *****6210 | Yong Qiang Lu | DD - ES | **1,790.00** |
| 10121437 | 10/1/21 | *****6178 | Chris Kui You | DD - ES | **2,376.00** |

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| | | | | | |
|---|---|---|---|---|---|
| 10121438 | 10/1/21 | *****7622 | Yee Yue Cheung | DD - ES | **1,295.00** |
| 10121439 | 10/1/21 | *****8664 | Mohammad Zalmaiyar | DD - ES | **2,455.00** |
| 10121440 | 10/1/21 | *****8685 | Feng Zhang | DD - ES | **2,726.00** |
| 10121441 | 10/1/21 | *****7638 | Jielu Zhao | DD - ES | **1,412.00** |
| 10121442 | 10/1/21 | *****2407 | Katherine Zhao | DD - ES | **2,721.00** |
| 10121443 | 10/1/21 | *****2940 | Wei Bin Zhang or Gao Wei | DD - ES | **1,966.00** |
| 10121444 | 10/1/21 | *****3259 | Xirong Zhao | DD - ES | **1,825.00** |
| 10121445 | 10/1/21 | *****5640 | Yan Zhang | DD - ES | **1,637.00** |
| 10121446 | 10/1/21 | *****4367 | Xiang Yang Zheng | DD - ES | **1,899.00** |
| 10121447 | 10/1/21 | *****9263 | Zhixing Li | DD - ES | **2,441.00** |
| 10121448 | 10/1/21 | *****3830 | Joy Yi Zhou | DD - ES | **1,932.00** |
| 10121449 | 10/1/21 | *****7805 | Shengguo Zhu | DD - ES | **5,365.00** |
| 10121450 | 10/1/21 | *****6132 | Ying Zhu<br>Ying Zhu | DD - ES | **5,084.00** |
| 10121451 | 10/1/21 | *****4651 | Weijie Zhang | DD - ES | **1,333.00** |

**Housing Choice Voucher**

| | |
|---|---|
| HAP | 1,493,698.57 |
| UR | 10,980.32 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | 285.71 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$1,504,964.60** |

**Grand Total**

| | |
|---|---|
| HAP | 1,493,698.57 |
| UR | 10,980.32 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | 285.71 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$1,504,964.60** |

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# Check Summary

October 1, 2021

| Check Number | Check Date | Payee Tax ID | Payee | | Amount |
|---|---|---|---|---|---|
| **Housing Choice Voucher** | | | | | |
| 10121467 | 10/1/21 | *****4910 | Sameer Jain | DD - ES | **12.00** |

| | | |
|---|---|---|
| **Housing Choice Voucher** | HAP | 12.00 |
| | UR | 0.00 |
| | Damage Claim | 0.00 |
| | Vacancy Claim | 0.00 |
| | Administrative Fee | 0.00 |
| | FSS Escrow Account | 0.00 |
| | Shelter Plus Security Deposit | 0.00 |
| | Other | 0.00 |
| | **All Payments** | **$12.00** |

# Check Summary

October 1, 2021

| Check Number | Check Date | Payee Tax ID | Payee | | Amount |
|---|---|---|---|---|---|
| **VASH** | | | | | |
| * 50204 | 10/1/21 | *****2062 | John M Ferguson | | **71.00** |
| 50205 | 10/1/21 | *****5735 | Michael Wimmer | | **122.00** |
| 50206 | 10/1/21 | *****7845 | Troy Mills | | **29.00** |
| 50207 | 10/1/21 | *****9543 | Steven Williamson | | **52.00** |
| 50208 | 10/1/21 | *****9325 | JOW & AAW, LLC | | **2,109.00** |
| 50209 | 10/1/21 | *****9326 | Western Addition Apartments, LLC | | **1,483.00** |
| 50210 | 10/1/21 | *****1636 | Jimmy Bhatia | | **1,172.00** |
| 50211 | 10/1/21 | *****2361 | George Edward Cole | | **1,267.00** |
| 50212 | 10/1/21 | *****2116 | MSR Rental Properties, LLC<br>C/O EEN Property Management | | **1,700.00** |
| 50213 | 10/1/21 | *****5770 | Ventana Rental Homes | | **3,874.00** |
| 50214 | 10/1/21 | *****7378 | Marina Heights Apartments, LP | | **7,559.00** |
| * 10121452 | 10/1/21 | *****4636 | Felipe Amarante | DD - ES | **1,483.00** |
| 10121453 | 10/1/21 | *****3909 | Ken Bartlett | DD - ES | **1,370.00** |
| 10121454 | 10/1/21 | *****7492 | Adrienne Kelly Belton | DD - ES | **720.00** |
| 10121455 | 10/1/21 | *****7075 | Som N Bhatia | DD - ES | **1,261.00** |
| 10121456 | 10/1/21 | *****8860 | Joe Burns | DD - ES | **1,079.00** |

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| | | | | | |
|---|---|---|---|---|---|
| 10121457 | 10/1/21 | *****2513 | Clara Beatriz Cardenas | DD - ES | **1,500.00** |
| 10121458 | 10/1/21 | *****0746 | Contra Costa County Housing Authority | DD - ES | **0.00** |
| 10121459 | 10/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **16,421.00** |
| 10121460 | 10/1/21 | *****9507 | Olga M. Disney | DD - ES | **1,354.00** |
| 10121461 | 10/1/21 | *****3406 | Mercy Housing California XXXVIII<br>East Leland Court Apartments | DD - ES | **600.00** |
| 10121462 | 10/1/21 | *****4032 | Fox Creek Apartments | DD - ES | **789.00** |
| 10121463 | 10/1/21 | *****4432 | FFR Investments LLC | DD - ES | **1,822.00** |
| 10121464 | 10/1/21 | *****5111 | Gateway Apartments | DD - ES | **3,160.00** |
| 10121465 | 10/1/21 | *****5267 | Abhilash Gupta | DD - ES | **1,729.00** |
| 10121466 | 10/1/21 | *****6728 | David T. Hennigan | DD - ES | **3,270.00** |
| 10121468 | 10/1/21 | *****3555 | Yiping I. and Frederic Leroudier | DD - ES | **2,472.00** |
| 10121469 | 10/1/21 | *****3386 | James J. Busby and Irvin Deutcher a Partnership DBA<br>Crestview Apartments | DD - ES | **1,142.00** |
| 10121470 | 10/1/21 | *****1547 | Paul Livson | DD - ES | **3,074.00** |
| 10121471 | 10/1/21 | *****1494 | Xiangwen Lu | DD - ES | **3,538.00** |
| 10121472 | 10/1/21 | *****2242 | James McDonald | DD - ES | **1,500.00** |
| 10121473 | 10/1/21 | *****9886 | Northstar Financial Group, LLC | DD - ES | **3,037.00** |
| 10121474 | 10/1/21 | *****7228 | Ramsey Horton | DD - ES | **1,685.00** |
| 10121475 | 10/1/21 | *****6703 | Amerasia Real Estate Fund LLC | DD - ES | **1,662.00** |
| 10121476 | 10/1/21 | *****7083 | Reliant - Woods Grove, LP | DD - ES | **2,684.00** |
| 10121477 | 10/1/21 | *****7396 | Sierra Pacific Properties Inc<br>Sierra Pacific Properties Inc | DD - ES | **3,823.00** |
| 10121478 | 10/1/21 | *****7789 | Siena Court Apartments | DD - ES | **1,165.00** |
| 10121479 | 10/1/21 | *****7396 | Sierra Pacific Properties<br>Peppertree Apartments | DD - ES | **2,815.00** |
| 10121480 | 10/1/21 | *****7396 | Sierra Pacific Properties<br>Woodland Hills Apartments | DD - ES | **1,893.00** |
| 10121481 | 10/1/21 | *****3465 | Ramzi D Srouji | DD - ES | **1,957.00** |
| 10121482 | 10/1/21 | *****0437 | Suisun City Housing Authority | DD - ES | **1,420.44** |
| 10121483 | 10/1/21 | *****2094 | Raphael Minhtuyen Tran | DD - ES | **1,713.00** |
| 10121484 | 10/1/21 | *****4563 | Isidoro Weitzman | DD - ES | **1,957.00** |
| 10121485 | 10/1/21 | *****4908 | Lewis White & Ruth White<br>Elma Ruth White | DD - ES | **1,294.00** |

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| | | |
|---|---|---|
| **VASH** | HAP | 94,158.44 |
| | UR | 274.00 |
| | Damage Claim | 0.00 |
| | Vacancy Claim | 0.00 |
| | Administrative Fee | 395.00 |
| | FSS Escrow Account | 0.00 |
| | Shelter Plus Security Deposit | 0.00 |
| | Other | 0.00 |
| | **All Payments** | **$94,827.44** |

| | | |
|---|---|---|
| **Grand Total** | | |
| | HAP | 94,170.44 |
| | UR | 274.00 |
| | Damage Claim | 0.00 |
| | Vacancy Claim | 0.00 |
| | Administrative Fee | 395.00 |
| | FSS Escrow Account | 0.00 |
| | Shelter Plus Security Deposit | 0.00 |
| | Other | 0.00 |
| | **All Payments** | **$94,839.44** |

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# Check Summary

October 15, 2021

| | Check Number | Check Date | Payee Tax ID | Payee | | Amount |
|---|---|---|---|---|---|---|
| **Housing Choice Voucher** | | | | | | |
| | 50216 | 10/15/21 | *****7378 | Marina Heights Apartments, LP | | **1,342.00** |
| * | 101521001 | 10/15/21 | *****6569 | Jeannette D. Crespo | DD - ES | **94.00** |
| | 101521002 | 10/15/21 | *****4032 | Fox Creek Apartments | DD - ES | **103.00** |
| | 101521003 | 10/15/21 | *****3032 | Jesse Gonzaga | DD - ES | **217.00** |
| | 101521004 | 10/15/21 | *****5267 | Abhilash Gupta | DD - ES | **535.00** |
| | 101521005 | 10/15/21 | *****6728 | David T. Hennigan | DD - ES | **309.00** |
| | 101521006 | 10/15/21 | *****2191 | Radha Mahesram | DD - ES | **64.00** |
| | 101521007 | 10/15/21 | *****4885 | Momin Raees | DD - ES | **1,824.00** |
| | 101521008 | 10/15/21 | *****0985 | Rodney Montgomery or Sharon Montgomery | DD - ES | **205.00** |
| | 101521009 | 10/15/21 | *****0054 | NC Associates, Inc. | DD - ES | **141.00** |
| | 101521010 | 10/15/21 | *****8826 | Prime Metropolis Properties, Inc. | DD - ES | **1,689.00** |
| | 101521011 | 10/15/21 | *****3881 | RH Portofino Owner CA LLC | DD - ES | **13,947.00** |
| | 101521013 | 10/15/21 | *****8216 | Abby Sukarto | DD - ES | **1,617.00** |
| | 101521014 | 10/15/21 | *****6220 | Fenny Wijayanti | DD - ES | **475.00** |
| | 101521015 | 10/15/21 | *****3259 | Xirong Zhao | DD - ES | **114.00** |

| | | |
|---|---|---|
| **Housing Choice Voucher** | HAP | 22,676.00 |
| | UR | 0.00 |
| | Damage Claim | 0.00 |
| | Vacancy Claim | 0.00 |
| | Administrative Fee | 0.00 |
| | FSS Escrow Account | 0.00 |
| | Shelter Plus Security Deposit | 0.00 |
| | Other | 0.00 |
| | **All Payments** | **$22,676.00** |

# Check Summary

October 15, 2021

| | Check Number | Check Date | Payee Tax ID | Payee | Amount |
|---|---|---|---|---|---|
| **VASH** | | | | | |
| * | 50215 | 10/15/21 | *****9507 | Olga M. Disney | **2,708.00** |

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| | | | | |
|---|---|---|---|---|
| 101521012 | 10/15/21 *****7396 | Sierra Pacific Properties Inc<br>Sierra Pacific Properties Inc | DD - ES | **216.00** |

**VASH**

**VASH**

| | |
|---|---|
| HAP | 2,924.00 |
| UR | 0.00 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | 0.00 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$2,924.00** |

**Grand Total**

| | |
|---|---|
| HAP | 25,600.00 |
| UR | 0.00 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | 0.00 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$25,600.00** |

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## HOUSING AUTHORITY OF THE CITY OF PITTSBURG
## DISBURSEMENT SUMMARY
## FOR THE MONTH ENDED NOVEMBER 30th, 2021

**VOUCHERS**

| Ck# | Amount | HAP[1] | VASH[2] | UR[3] | Portability | Admin. Fee | TOTAL |
|---|---|---|---|---|---|---|---|
| 50217-50356<br>110121001-110121462 | $ 1,602,319.58 | 1,495,408.82 | 87,166.44 | 10,857.32 | 8,887.00 | - | $ 1,602,319.58 |
| 50357-50363<br>111521001-111521009 | 22,424.00 | 9,358.00 | 3,386.00 | 793.00 | 8,887.00 | - | 22,424.00 |
| **TOTAL** | **$ 1,624,743.58** | **1,504,766.82** | **90,552.44** | **11,650.32** | **17,774.00** | **-** | **$ 1,624,743.58** |

[1]Housing Assistance Payment [2]Veterans Affairs Supportive Housing [3]Utility Reimbursement

**ADMINISTRATIVE EXPENSES**

| Description | TOTAL |
|---|---|
| Salaries and Wages | $ 42,572.10 |
| Salaries- Overtime | 320.98 |
| Retirement Miscellaneous | 3,179.79 |
| Health Insurance - Employees | 9,368.32 |
| Life Insurance | 78.34 |
| Dental Insurance | 827.24 |
| Vision - Employee | 93.76 |
| Workers' Compensation | 1,378.97 |
| Unemployment Insurance | 252.32 |
| F I C A & Medicare | 3,316.53 |
| Deferred Compensation - Employer | 831.26 |
| Office Supplies & Materials | 5,383.94 |
| Utilities - Electric | 1,172.78 |
| Utilities - Water | 41.68 |
| Utilities - Telephone Service | 507.33 |
| Utilities - WiFi/Cellphone Service | 232.57 |
| Other Contractual & Professional Service | 35,051.24 |
| Building Rental | 2,375.00 |
| Fleet Maintenance Alloc Chgs | 16.00 |
| Utilities - Water | 49.85 |
| Maintenance & Repairs | 2,375.00 |
| Other fees | 216.60 |
| | $ 109,641.60 |

**VOIDED CHECKS & ADJUSTMENTS**

| Ck# | Reason | | Amount |
|---|---|---|---|
| | Void check | None for November 2021 | $ - |
| | | | - |
| | | TOTAL | $ - |

Prepared by: HB

Reviewed by: LM

**NET OF ISSUED AND VOIDED PAYMENTS $ 1,734,385.18**

# Check Summary

November 1, 2021

| | Check Number | Check Date | Payee Tax ID | Payee | Amount |
|---|---|---|---|---|---|
| **Housing Choice Voucher** | | | | | |
| * | 50217 | 11/1/21 | *****2494 | Amana K Cornish | **30.00** |
| | 50218 | 11/1/21 | *****7533 | Angelique F Davis | **103.00** |
| | 50219 | 11/1/21 | *****7730 | Ashley M Brown | **147.00** |
| | 50220 | 11/1/21 | *****1702 | Christina M Fitzgerald | **63.00** |
| | 50221 | 11/1/21 | *****4282 | Cynthia g Cones | **33.00** |
| | 50222 | 11/1/21 | *****0269 | Dajon W Smith | **47.00** |
| | 50223 | 11/1/21 | *****3976 | Darren M Thompson | **36.00** |
| | 50224 | 11/1/21 | *****2319 | Delfonse A Lewis | **173.00** |
| | 50225 | 11/1/21 | *****3528 | Elisa Johnson | **175.00** |
| | 50226 | 11/1/21 | *****3840 | Eva L Mangum | **85.00** |
| | 50227 | 11/1/21 | | Franchise Tax Board | **253.50** |
| | 50228 | 11/1/21 | *****8874 | Iman N Hanif | **208.00** |
| | 50229 | 11/1/21 | *****6015 | Jade Nelson | **123.00** |
| | 50231 | 11/1/21 | *****7910 | Javecia M Horton | **23.00** |
| | 50232 | 11/1/21 | *****6377 | Jo Ann Brooks | **29.00** |
| | 50234 | 11/1/21 | *****4091 | Joshua C Perez | **220.00** |
| | 50235 | 11/1/21 | *****2309 | Kawanda M Dotson | **34.00** |
| | 50236 | 11/1/21 | *****6519 | Krystal M Williams | **67.00** |
| | 50237 | 11/1/21 | *****7253 | Laneava S Blanks | **38.00** |
| | 50238 | 11/1/21 | *****3960 | Lyniece N Eddins | **1.00** |
| | 50239 | 11/1/21 | *****3347 | Maria B Martinez | **14.00** |
| | 50240 | 11/1/21 | *****8042 | Melissa J Perkins | **234.00** |
| | 50242 | 11/1/21 | *****2674 | Monika Smith | **37.00** |
| | 50243 | 11/1/21 | *****9905 | Nakisha Fountain | **137.00** |
| | 50244 | 11/1/21 | *****6935 | Samaiyah A Warren | **79.00** |
| | 50245 | 11/1/21 | *****5994 | Shamia L Patterson | **304.00** |
| | 50246 | 11/1/21 | *****3403 | Shanae V Washington | **98.00** |
| | 50247 | 11/1/21 | *****3772 | Tatyana A Jackson | **39.00** |
| | 50248 | 11/1/21 | *****6806 | Thelma R Hearne | **21.00** |
| | 50250 | 11/1/21 | *****1418 | Patricia A Blocker | **27.00** |
| | 50251 | 11/1/21 | *****1654 | Jaime M Lopez | **175.00** |
| | 50252 | 11/1/21 | *****2890 | Raquel E Miller | **57.00** |
| | 50253 | 11/1/21 | *****1679 | Albert K Lea III | **233.00** |
| | 50254 | 11/1/21 | *****5232 | Danielle M Thomas | **124.00** |

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| 50255 | 11/1/21 | *****0164 | Bobbie J Royston | **144.00** |
| 50256 | 11/1/21 | *****4208 | Ono c Rothschild | **317.00** |
| 50257 | 11/1/21 | *****2184 | Evelyn Smith | **109.00** |
| 50258 | 11/1/21 | *****9858 | Livis J Sanders | **15.00** |
| 50259 | 11/1/21 | *****3035 | Irma M Castillo | **53.00** |
| 50260 | 11/1/21 | *****4119 | Pashenia D Sanders | **115.00** |
| 50261 | 11/1/21 | *****5133 | Mary P Grigsby | **38.00** |
| 50262 | 11/1/21 | *****3180 | Kamika C Thigpen | **9.00** |
| 50263 | 11/1/21 | *****8373 | Vonia Jackson | **103.00** |
| 50264 | 11/1/21 | *****8275 | Mildred G Botello | **110.00** |
| 50265 | 11/1/21 | *****0478 | Destiny S Albert | **265.00** |
| 50266 | 11/1/21 | *****8665 | Nieza M Burrus | **250.00** |
| 50267 | 11/1/21 | *****8612 | Regina D Tucker | **68.00** |
| 50268 | 11/1/21 | *****9687 | Carol J Davis | **48.00** |
| 50269 | 11/1/21 | *****7988 | Melvina D Brunt | **177.00** |
| 50270 | 11/1/21 | *****8959 | Tara C Cole | **277.00** |
| 50271 | 11/1/21 | *****6015 | Sherron A Camp | **292.00** |
| 50272 | 11/1/21 | *****0531 | Akilah Z Parker | **145.00** |
| 50273 | 11/1/21 | *****5301 | Tiffany N Butler | **121.00** |
| 50274 | 11/1/21 | *****5492 | Michelle m Berry | **7.00** |
| 50275 | 11/1/21 | *****7135 | Michele N Nichols | **80.00** |
| 50276 | 11/1/21 | *****8831 | Theresa p Jones | **7.00** |
| 50277 | 11/1/21 | *****5626 | Lashawn P Fields | **3.00** |
| 50278 | 11/1/21 | *****5232 | Kristina M Greer | **81.00** |
| 50279 | 11/1/21 | *****3113 | Mannah S Parrott | **79.00** |
| 50280 | 11/1/21 | *****6215 | Janet Brown | **118.36** |
| 50281 | 11/1/21 | *****4767 | Freddie L Henderson | **39.00** |
| 50282 | 11/1/21 | *****9835 | Darrell C Carter | **15.00** |
| 50283 | 11/1/21 | *****3181 | Shirley J Strausbaugh | **11.00** |
| 50284 | 11/1/21 | *****2695 | Monique Thompson | **60.00** |
| 50285 | 11/1/21 | *****4973 | Be Thi Nguyen | **39.00** |
| 50286 | 11/1/21 | *****0903 | Virgie r Gray | **61.00** |
| 50287 | 11/1/21 | *****6507 | Melissa R Griffin | **29.00** |
| 50288 | 11/1/21 | *****1129 | Tiffany L Pellom | **22.00** |
| 50289 | 11/1/21 | *****4736 | Michelle T Cocker | **265.00** |
| 50290 | 11/1/21 | *****4987 | Delois Sanford | **11.00** |
| 50291 | 11/1/21 | *****3869 | Charlene M Best | **90.00** |
| 50292 | 11/1/21 | *****8818 | Renee d Ford | **66.00** |
| 50293 | 11/1/21 | *****4721 | Ebony N Manning | **42.00** |
| 50294 | 11/1/21 | *****1595 | Theresa M Evans | **35.00** |
| 50296 | 11/1/21 | *****8494 | Kimdreal G Venson | **101.00** |

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|---|---|---|---|---|
| 50297 | 11/1/21 | *****4672 | Latasha P Martin | **21.00** |
| 50298 | 11/1/21 | *****5692 | Jakeesha S Acree | **292.00** |
| 50299 | 11/1/21 | *****1606 | Tamika Brown | **62.00** |
| 50300 | 11/1/21 | *****8308 | DeAndre A Ellingberg | **106.00** |
| 50301 | 11/1/21 | *****5083 | Crystal j Houston | **229.00** |
| 50302 | 11/1/21 | *****8992 | Carrie L Saravia | **275.00** |
| 50303 | 11/1/21 | *****6858 | Shawna M Jones | **43.00** |
| 50304 | 11/1/21 | *****1698 | Genevieve L Allen | **230.00** |
| 50305 | 11/1/21 | *****6438 | Kwaume J Frederick | **116.00** |
| 50306 | 11/1/21 | *****6573 | Hermajo L Hoskins | **111.00** |
| 50307 | 11/1/21 | *****6355 | Linda P Smith | **92.00** |
| 50308 | 11/1/21 | *****8533 | Ebony N Washington | **265.00** |
| 50309 | 11/1/21 | *****0256 | Debra Gregory | **45.00** |
| 50310 | 11/1/21 | *****3277 | Stacie J Hogan | **167.00** |
| 50311 | 11/1/21 | *****8765 | Antoinette D Durrett | **178.00** |
| 50312 | 11/1/21 | *****2542 | Sau C Ly | **26.00** |
| 50313 | 11/1/21 | *****6953 | Nathan Banks JR | **47.00** |
| 50314 | 11/1/21 | *****0342 | Beverly A Lockwood | **7.00** |
| 50315 | 11/1/21 | *****0410 | Ashley S Andrews | **26.00** |
| 50316 | 11/1/21 | *****6598 | Ardean M Goulart | **39.00** |
| 50317 | 11/1/21 | *****1951 | Vinisha D Thornton | **25.00** |
| 50318 | 11/1/21 | *****0849 | Briana l Edwards | **132.00** |
| 50319 | 11/1/21 | *****7822 | Daudi K Edmond | **55.00** |
| 50320 | 11/1/21 | *****5758 | Monique c Chaves | **215.00** |
| 50321 | 11/1/21 | *****6095 | Leilani S Gomez | **280.00** |
| 50322 | 11/1/21 | *****9325 | JOW & AAW, LLC | **1,706.00** |
| 50323 | 11/1/21 | *****6825 | A Classey Corp.<br>DBA: ACL Property Management | **1,400.00** |
| 50324 | 11/1/21 | *****9326 | Western Addition Apartments, LLC | **4,145.00** |
| 50325 | 11/1/21 | *****8574 | Alamo Square Apartments LLC | **2,601.00** |
| 50326 | 11/1/21 | *****1636 | Jimmy Bhatia | **1,486.00** |
| 50327 | 11/1/21 | *****3581 | Mommi Cannon | **2,796.00** |
| 50328 | 11/1/21 | *****2361 | George Edward Cole | **1,635.00** |
| 50329 | 11/1/21 | *****2979 | Mr. Donald Rhodes<br>C/O Paul Shatswell Estate | **1,541.00** |
| 50330 | 11/1/21 | *****7079 | Federal D Glover | **1,834.00** |
| 50331 | 11/1/21 | *****6137 | Guild Mortgage<br>Loan # 503-2003900 | **2,458.00** |
| 50332 | 11/1/21 | *****0348 | Hartz Property Management | **1,720.00** |
| 50333 | 11/1/21 | *****1057 | Diamond Hillside Apartments | **3,274.00** |
| 50334 | 11/1/21 | *****2959 | San Francisco Housing Authority | **2,599.14** |
| 50335 | 11/1/21 | *****3941 | Steven Lau | **2,364.00** |

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|---|---|---|---|---|---|---|
| | 50336 | 11/1/21 | *****4593 | Miaogen Lu | | **2,725.00** |
| | 50337 | 11/1/21 | *****3124 | Dante McDonald | | **1,127.00** |
| | 50338 | 11/1/21 | *****4305 | Darryl H. Milburn | | **1,789.00** |
| | 50339 | 11/1/21 | *****2593 | Ba Nguyen<br>Thu Thi Ngo | | **1,963.00** |
| | 50340 | 11/1/21 | *****9182 | Lorene Paysinger | | **1,816.00** |
| | 50341 | 11/1/21 | *****7243 | Linda Phon | | **1,480.00** |
| | 50343 | 11/1/21 | *****2839 | Salmana S. Shah | | **1,781.00** |
| | 50344 | 11/1/21 | *****7396 | Sierra Pacific Properties | | **6,001.00** |
| | 50345 | 11/1/21 | *****8705 | Khalid Sultan | | **1,695.00** |
| | 50346 | 11/1/21 | *****8191 | Albert S Tam | | **1,256.00** |
| | 50347 | 11/1/21 | *****5770 | Ventana Rental Homes | | **1,855.00** |
| | 50348 | 11/1/21 | *****3239 | Veritel Homes LLC | | **759.00** |
| | 50349 | 11/1/21 | *****1355 | San Marcos Villas | | **1,419.00** |
| | 50350 | 11/1/21 | *****9322 | Western Upper Haight Street Apartments, LLC | | **3,513.00** |
| | 50351 | 11/1/21 | *****1102 | Ying Na Yeung | | **1,467.00** |
| | 50353 | 11/1/21 | *****1535 | Fanny Kao Huang | | **1,800.00** |
| | 50354 | 11/1/21 | *****7378 | Marina Heights Apartments, LP | | **19,319.00** |
| | 50355 | 11/1/21 | *****7378 | Marina Heights Apartments, LP | | **18,578.00** |
| | 50356 | 11/1/21 | *****7378 | Marina Heights Apartments, LP | | **13,757.00** |
| * | 110121001 | 11/1/21 | *****2626 | 9th Street Associates, LP | DD - ES | **5,980.00** |
| | 110121002 | 11/1/21 | *****0229 | Meerwais Abdiani | DD - ES | **926.00** |
| | 110121003 | 11/1/21 | *****8167 | ABJ Enterprises, Inc. dba Blue Line Property Management | DD - ES | **17,142.00** |
| | 110121004 | 11/1/21 | *****9050 | Leonda R Addison | DD - ES | **2,103.00** |
| | 110121005 | 11/1/21 | *****7139 | Amitabh Agrawal | DD - ES | **1,557.00** |
| | 110121006 | 11/1/21 | *****6232 | Rosario Aguilar | DD - ES | **1,117.00** |
| | 110121007 | 11/1/21 | *****5759 | Rosa Aguirre | DD - ES | **2,071.00** |
| | 110121008 | 11/1/21 | *****9530 | Demetrius Alexander | DD - ES | **1,780.00** |
| | 110121009 | 11/1/21 | *****5726 | Jane Alexander | DD - ES | **710.00** |
| | 110121010 | 11/1/21 | *****9681 | Dale Alvarez | DD - ES | **1,551.00** |
| | 110121012 | 11/1/21 | *****0104 | Cecilia Anderson | DD - ES | **1,974.00** |
| | 110121013 | 11/1/21 | *****9111 | Shawn Anderson | DD - ES | **2,233.00** |
| | 110121014 | 11/1/21 | *****5423 | Anisa Ebadi | DD - ES | **2,540.00** |
| | 110121015 | 11/1/21 | *****5951 | Stoneman Apartments | DD - ES | **32,001.00** |
| | 110121016 | 11/1/21 | *****5951 | Stoneman Apartments | DD - ES | **11,265.00** |
| | 110121017 | 11/1/21 | *****8701 | Mariteresa Arenson<br>c/o Select 1 Realty | DD - ES | **2,008.00** |
| | 110121018 | 11/1/21 | *****0707 | Sergeant or Sima Austin | DD - ES | **1,148.00** |
| | 110121019 | 11/1/21 | *****4941 | Shruti Motilal Ba-Harani | DD - ES | **2,199.00** |

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|---|---|---|---|---|---|
| 110121020 | 11/1/21 | *****2764 | Mel L. Banagan | DD - ES | **1,714.00** |
| 110121021 | 11/1/21 | *****4138 | Carlos G. Barraza | DD - ES | **820.00** |
| 110121022 | 11/1/21 | *****3909 | Ken Bartlett | DD - ES | **1,446.00** |
| 110121023 | 11/1/21 | *****1494 | Donald Scott Barbour | DD - ES | **2,627.00** |
| 110121024 | 11/1/21 | *****7563 | John Charles Bautista | DD - ES | **1,939.00** |
| 110121025 | 11/1/21 | *****3637 | Christine Becerra | DD - ES | **1,175.00** |
| 110121026 | 11/1/21 | *****9093 | Holly A Hawkins | DD - ES | **4,933.00** |
| 110121028 | 11/1/21 | *****8614 | Charles Bell and Camino Johnson-Bell | DD - ES | **1,815.00** |
| 110121029 | 11/1/21 | *****2521 | Belmont Apartments | DD - ES | **29,325.00** |
| 110121030 | 11/1/21 | *****2521 | Belmont Apartments | DD - ES | **31,520.00** |
| 110121031 | 11/1/21 | *****2521 | Belmont Apartments | DD - ES | **30,691.00** |
| 110121032 | 11/1/21 | *****5996 | Alex Benjamen | DD - ES | **934.00** |
| 110121033 | 11/1/21 | *****6465 | Tennyson Berry | DD - ES | **1,643.00** |
| 110121034 | 11/1/21 | *****8634 | Bethel Global Development LLC | DD - ES | **2,403.00** |
| 110121035 | 11/1/21 | *****2209 | Gina Bhatia | DD - ES | **2,805.00** |
| 110121036 | 11/1/21 | *****7075 | Som N Bhatia | DD - ES | **4,723.00** |
| 110121037 | 11/1/21 | *****0602 | Pinakin Bhatt | DD - ES | **2,443.00** |
| 110121038 | 11/1/21 | *****8470 | Joseph B. Bachir | DD - ES | **1,605.00** |
| 110121039 | 11/1/21 | *****5924 | Steven Booras | DD - ES | **2,265.00** |
| 110121040 | 11/1/21 | *****1438 | 2018-2 IH Borrower LP | DD - ES | **2,114.00** |
| 110121041 | 11/1/21 | *****2439 | Rosie M Boyd | DD - ES | **2,698.00** |
| 110121042 | 11/1/21 | *****8847 | Victoria Boyko | DD - ES | **2,051.00** |
| 110121043 | 11/1/21 | *****3037 | Kelly Ann Bradford | DD - ES | **1,441.00** |
| 110121044 | 11/1/21 | *****7855 | Mariya Briggs | DD - ES | **3,081.00** |
| 110121045 | 11/1/21 | *****6215 | Janet Brown | DD - ES | **2,020.64** |
| 110121046 | 11/1/21 | *****7469 | Jessica G. Platt | DD - ES | **1,477.00** |
| 110121047 | 11/1/21 | *****9954 | Blue Sapphire Homes, Inc. | DD - ES | **2,589.00** |
| 110121048 | 11/1/21 | *****2142 | Huong T. Bui | DD - ES | **4,200.00** |
| 110121051 | 11/1/21 | *****4042 | Donnell I. Carson | DD - ES | **1,863.00** |
| 110121052 | 11/1/21 | *****2700 | Carpino, LLC | DD - ES | **1,981.00** |
| 110121053 | 11/1/21 | *****5079 | Castle Creek Company, Inc.<br>Trust Account | DD - ES | **1,528.00** |
| 110121054 | 11/1/21 | *****6006 | Christopher Todd Chambers | DD - ES | **2,150.00** |
| 110121055 | 11/1/21 | *****6869 | Cora Ann Chambers | DD - ES | **745.00** |
| 110121056 | 11/1/21 | *****5571 | P. M. Chaobal | DD - ES | **2,165.00** |
| 110121057 | 11/1/21 | *****9661 | Chao Chen | DD - ES | **474.00** |
| 110121058 | 11/1/21 | *****1853 | Hong Chen | DD - ES | **4,994.00** |
| 110121059 | 11/1/21 | *****8946 | Jienlin Chen | DD - ES | **4,927.00** |
| 110121060 | 11/1/21 | *****4714 | Wenhua Chen | DD - ES | **2,361.00** |
| 110121061 | 11/1/21 | *****5473 | Hwa-Yoong Chiu | DD - ES | **2,467.00** |

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|---|---|---|---|---|---|
| 110121062 | 11/1/21 | *****3211 | Ada Choi | DD - ES | **2,556.00** |
| 110121063 | 11/1/21 | *****2454 | Chun Ok Choi | DD - ES | **3,794.00** |
| 110121064 | 11/1/21 | *****7759 | Michele Choi | DD - ES | **2,291.00** |
| 110121065 | 11/1/21 | *****2433 | Chau Chung | DD - ES | **2,632.00** |
| 110121066 | 11/1/21 | *****0310 | City of Pittsburg Housing Authority | DD - ES | **3,922.00** |
| 110121067 | 11/1/21 | *****3591 | Juan F. Clara | DD - ES | **1,233.00** |
| 110121068 | 11/1/21 | *****1362 | College Park Housing Authority | DD - ES | **0.00** |
| 110121069 | 11/1/21 | *****0855 | Adolph Rudolph Cortesi III | DD - ES | **1,670.00** |
| 110121070 | 11/1/21 | *****5708 | David Elmer Cortesi | DD - ES | **1,311.00** |
| 110121071 | 11/1/21 | *****0746 | Contra Costa County Housing Authority | DD - ES | **1,125.14** |
| 110121072 | 11/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **25,895.00** |
| 110121073 | 11/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **25,454.00** |
| 110121074 | 11/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **23,342.00** |
| 110121076 | 11/1/21 | *****6569 | Jeannette D. Crespo | DD - ES | **2,616.00** |
| 110121077 | 11/1/21 | *****7900 | Patricia Crosby | DD - ES | **1,664.00** |
| 110121078 | 11/1/21 | *****3327 | Jorge Robert Dagys Delevan<br>Catty Leticia Pajoluk | DD - ES | **1,739.00** |
| 110121079 | 11/1/21 | *****6248 | Justin Dailey | DD - ES | **1,464.00** |
| 110121080 | 11/1/21 | *****1622 | Dam Quang To | DD - ES | **2,721.00** |
| 110121081 | 11/1/21 | *****0793 | Danica J. French Evans | DD - ES | **1,714.00** |
| 110121082 | 11/1/21 | *****2963 | Audrey Davis | DD - ES | **1,348.00** |
| 110121083 | 11/1/21 | *****0396 | Kesha E. Davis | DD - ES | **1,091.00** |
| 110121084 | 11/1/21 | *****8929 | Kevin Davidson | DD - ES | **1,252.00** |
| 110121085 | 11/1/21 | *****4961 | Paulette Davis | DD - ES | **1,621.00** |
| 110121086 | 11/1/21 | *****6115 | Roshan M. Davis | DD - ES | **1,429.00** |
| 110121087 | 11/1/21 | *****9068 | Jagdeep or Shashi Dayal | DD - ES | **3,685.00** |
| 110121088 | 11/1/21 | *****2031 | Wayman Dea | DD - ES | **1,825.00** |
| 110121089 | 11/1/21 | *****8370 | Charles Dellamore | DD - ES | **1,850.00** |
| 110121090 | 11/1/21 | *****5882 | David De La Torre | DD - ES | **1,757.00** |
| 110121091 | 11/1/21 | *****1004 | Brigitte P. Doan | DD - ES | **5,560.00** |
| 110121092 | 11/1/21 | *****3531 | Anna Phuongnam Thi Do | DD - ES | **4,609.00** |
| 110121093 | 11/1/21 | *****9716 | JoAnn or Larry Domina | DD - ES | **1,390.00** |
| 110121094 | 11/1/21 | *****5568 | Ester Coleman Dunlap | DD - ES | **1,481.00** |
| 110121095 | 11/1/21 | *****5326 | Tyrone W. Duncan | DD - ES | **1,756.00** |
| 110121096 | 11/1/21 | *****6538 | Linda Duong | DD - ES | **1,345.00** |
| 110121097 | 11/1/21 | *****3406 | Mercy Housing California XXXVIII<br>East Leland Court Apartments | DD - ES | **2,555.00** |
| 110121098 | 11/1/21 | *****0372 | Doris Engle Family Ltd Partnership<br>c/o Select 1 Realty | DD - ES | **1,313.00** |
| 110121099 | 11/1/21 | *****3757 | Alma B Espiritu | DD - ES | **2,078.00** |

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| 110121100 | 11/1/21 | *****4023 | Johnathan Espinoza | DD - ES | **1,486.00** |
| 110121101 | 11/1/21 | *****8122 | Gerardo M. Esquivel | DD - ES | **1,154.00** |
| 110121102 | 11/1/21 | *****6027 | Jianxin Fang | DD - ES | **5,315.00** |
| 110121103 | 11/1/21 | *****1830 | Xiangfang Li | DD - ES | **2,794.00** |
| 110121104 | 11/1/21 | *****3602 | Favian M. Wong | DD - ES | **2,400.00** |
| 110121105 | 11/1/21 | *****3835 | Michael Mao<br>C/O Jing Feng | DD - ES | **2,851.00** |
| 110121106 | 11/1/21 | *****2790 | Barbara J. Fierner | DD - ES | **1,775.00** |
| 110121107 | 11/1/21 | *****9447 | Joseph Field | DD - ES | **1,137.00** |
| 110121108 | 11/1/21 | *****7691 | Hernan Roberto Figueroa | DD - ES | **1,570.00** |
| 110121109 | 11/1/21 | *****0962 | Tochia D. Brewster Fleeton | DD - ES | **1,452.00** |
| 110121110 | 11/1/21 | *****5773 | Alexander Flowers | DD - ES | **1,395.00** |
| 110121111 | 11/1/21 | *****4032 | Fox Creek Apartments | DD - ES | **26,121.00** |
| 110121112 | 11/1/21 | *****4032 | Fox Creek Apartments | DD - ES | **4,242.00** |
| 110121113 | 11/1/21 | *****0284 | Monica Fraga | DD - ES | **1,775.00** |
| 110121114 | 11/1/21 | *****6894 | Rejois O Frazier | DD - ES | **3,852.00** |
| 110121116 | 11/1/21 | *****6265 | Mr. Darren Fuller | DD - ES | **2,164.00** |
| 110121117 | 11/1/21 | *****8997 | Fan Fuller | DD - ES | **1,712.00** |
| 110121118 | 11/1/21 | *****9634 | Gialene Gaines | DD - ES | **2,050.00** |
| 110121119 | 11/1/21 | *****9590 | Aminifu Gamba | DD - ES | **2,677.00** |
| 110121120 | 11/1/21 | *****2189 | Kelly Yu Min Gao | DD - ES | **2,331.00** |
| 110121121 | 11/1/21 | *****6981 | Adraine Gardner | DD - ES | **1,466.00** |
| 110121122 | 11/1/21 | *****4278 | Antoinette L Garcia | DD - ES | **1,212.00** |
| 110121123 | 11/1/21 | *****7036 | David Gardner | DD - ES | **3,364.00** |
| 110121124 | 11/1/21 | *****0785 | Rupesh Garg | DD - ES | **2,377.00** |
| 110121125 | 11/1/21 | *****2931 | William H. Gardiner | DD - ES | **2,204.00** |
| 110121126 | 11/1/21 | *****5111 | Gateway Apartments | DD - ES | **6,285.00** |
| 110121127 | 11/1/21 | *****5298 | Parvindokht Ghaboulidashti | DD - ES | **1,110.00** |
| 110121128 | 11/1/21 | *****2770 | Eva Gholson | DD - ES | **1,738.00** |
| 110121129 | 11/1/21 | *****1145 | Vernon or Eva Gholson | DD - ES | **2,660.00** |
| 110121130 | 11/1/21 | *****5958 | Jacqueline Gill | DD - ES | **1,486.00** |
| 110121131 | 11/1/21 | *****3566 | Mahavir Gill<br>Mahavir S Gill Sr | DD - ES | **5,077.00** |
| 110121132 | 11/1/21 | *****8187 | Sukpran Gill | DD - ES | **1,483.00** |
| 110121133 | 11/1/21 | *****6084 | Gold A and S LLC | DD - ES | **2,456.00** |
| 110121134 | 11/1/21 | *****6208 | Hadiya A Gomez | DD - ES | **846.00** |
| 110121135 | 11/1/21 | *****3032 | Jesse Gonzaga | DD - ES | **2,494.00** |
| 110121136 | 11/1/21 | *****2367 | Ting Gong | DD - ES | **2,163.00** |
| 110121137 | 11/1/21 | *****6940 | Frances Greene | DD - ES | **2,676.00** |
| 110121138 | 11/1/21 | *****4872 | Rodney Green | DD - ES | **935.00** |
| 110121139 | 11/1/21 | *****3361 | Rupinder Grewal | DD - ES | **2,972.00** |

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| 110121140 | 11/1/21 | *****7325 | Patricia Gridley | DD - ES | **760.50** |
| 110121141 | 11/1/21 | *****6305 | Italo Grossi | DD - ES | **1,595.00** |
| 110121142 | 11/1/21 | *****6721 | Amparo Guardado<br>Cesar Q. Guardado | DD - ES | **1,413.00** |
| 110121143 | 11/1/21 | *****0940 | Krystle Guan | DD - ES | **4,076.00** |
| 110121144 | 11/1/21 | *****5987 | Bob Gunson Real Estate<br>C/O Julie Hang | DD - ES | **1,359.00** |
| 110121145 | 11/1/21 | *****5267 | Abhilash Gupta | DD - ES | **2,956.00** |
| 110121146 | 11/1/21 | *****7930 | Donald R. Watson, Sr. | DD - ES | **878.00** |
| 110121147 | 11/1/21 | *****2314 | Nicole Hackett | DD - ES | **1,488.00** |
| 110121148 | 11/1/21 | *****6176 | Asharfun Nisha Hafiz | DD - ES | **1,597.00** |
| 110121149 | 11/1/21 | *****0457 | Jeffrey Paul Hagler | DD - ES | **5,558.00** |
| 110121150 | 11/1/21 | *****9827 | Delores Jane Hall | DD - ES | **1,712.00** |
| 110121151 | 11/1/21 | *****4299 | Clarence Jerome Hardison | DD - ES | **2,642.00** |
| 110121152 | 11/1/21 | *****6228 | David L Hart | DD - ES | **1,939.00** |
| 110121153 | 11/1/21 | *****1769 | Lawrence Harrold | DD - ES | **6,467.00** |
| 110121154 | 11/1/21 | *****7423 | Delta Hawaii Garden Apartments LLC | DD - ES | **8,515.00** |
| 110121155 | 11/1/21 | *****5859 | Chuanhu He | DD - ES | **1,911.00** |
| 110121156 | 11/1/21 | *****0855 | Ji Yuan He | DD - ES | **2,026.00** |
| 110121157 | 11/1/21 | *****6728 | David T. Hennigan | DD - ES | **15,820.00** |
| 110121158 | 11/1/21 | *****3097 | Silvester C. Henderson | DD - ES | **3,228.00** |
| 110121159 | 11/1/21 | *****2157 | Elias Herrera | DD - ES | **363.00** |
| 110121160 | 11/1/21 | *****1603 | Marva Hill | DD - ES | **357.00** |
| 110121161 | 11/1/21 | *****3207 | Chainchal Hira | DD - ES | **2,032.00** |
| 110121162 | 11/1/21 | *****6255 | Carl E. Hoard II | DD - ES | **1,319.00** |
| 110121163 | 11/1/21 | *****7386 | Hanh Huu Hoang | DD - ES | **2,803.00** |
| 110121164 | 11/1/21 | *****5654 | Havy S Hoag | DD - ES | **2,087.00** |
| 110121165 | 11/1/21 | *****4106 | Albert Ho | DD - ES | **1,746.00** |
| 110121166 | 11/1/21 | *****8576 | Joyce Ann Hoffman | DD - ES | **1,316.00** |
| 110121167 | 11/1/21 | *****4543 | Ronald G. Holmes | DD - ES | **1,360.00** |
| 110121168 | 11/1/21 | *****7987 | SRH Holdings LLC | DD - ES | **3,342.00** |
| 110121169 | 11/1/21 | *****2768 | Invitation Homes | DD - ES | **484.00** |
| 110121170 | 11/1/21 | *****5700 | Tony Ho | DD - ES | **1,367.00** |
| 110121171 | 11/1/21 | *****9956 | Cheng Huang | DD - ES | **2,794.00** |
| 110121172 | 11/1/21 | *****8816 | Ming Zin Huang | DD - ES | **2,860.00** |
| 110121173 | 11/1/21 | *****7984 | Tao Huang | DD - ES | **7,045.00** |
| 110121174 | 11/1/21 | *****7838 | Xia Jing Huang | DD - ES | **2,586.00** |
| 110121175 | 11/1/21 | *****9084 | Nancy Xiu Zhen Hu | DD - ES | **1,985.00** |
| 110121176 | 11/1/21 | *****6229 | Thinh Trieu Huynh | DD - ES | **2,400.00** |
| 110121177 | 11/1/21 | *****0778 | IGreen House Inc. | DD - ES | **910.00** |
| 110121178 | 11/1/21 | *****7951 | IH5 Property West LP | DD - ES | **3,228.00** |

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| 110121179 | 11/1/21 | *****8323 | Keyee Investment LLC | DD - ES | **1,451.00** |
| 110121180 | 11/1/21 | *****1017 | LaShon D Irving | DD - ES | **1,991.00** |
| 110121181 | 11/1/21 | *****6821 | Michael or Kay Isola | DD - ES | **2,319.00** |
| 110121182 | 11/1/21 | *****4913 | Jabbarr Love | DD - ES | **1,891.00** |
| 110121183 | 11/1/21 | *****2036 | Brandi Jackson<br>c/o Perry Realty Team | DD - ES | **2,165.00** |
| 110121184 | 11/1/21 | *****1075 | Consuelo Marie Jackson | DD - ES | **2,920.00** |
| 110121185 | 11/1/21 | *****5120 | Deepika Sameer Jain | DD - ES | **5,171.00** |
| 110121186 | 11/1/21 | *****4910 | Sameer Jain | DD - ES | **7,887.00** |
| 110121187 | 11/1/21 | *****3307 | Vishal S. Jain | DD - ES | **1,157.00** |
| 110121188 | 11/1/21 | *****1349 | Jason Le | DD - ES | **2,611.00** |
| 110121189 | 11/1/21 | *****6917 | Jian Xing Zhang | DD - ES | **1,486.00** |
| 110121190 | 11/1/21 | *****3090 | Krystal Johnson | DD - ES | **1,942.00** |
| 110121191 | 11/1/21 | *****8569 | Ronita Johnson | DD - ES | **1,480.00** |
| 110121192 | 11/1/21 | *****8867 | James Jones | DD - ES | **1,486.00** |
| 110121193 | 11/1/21 | *****2434 | Sharon Jones | DD - ES | **1,923.00** |
| 110121194 | 11/1/21 | *****4905 | Mostaeen B Jouya | DD - ES | **1,700.00** |
| 110121195 | 11/1/21 | *****5647 | Om Parkash Kalra | DD - ES | **3,231.00** |
| 110121196 | 11/1/21 | *****8425 | Wei Kang | DD - ES | **4,841.00** |
| 110121197 | 11/1/21 | *****7429 | Navkirandeep Kaur | DD - ES | **2,380.00** |
| 110121198 | 11/1/21 | *****5248 | KC Prime LLC | DD - ES | **2,050.00** |
| 110121199 | 11/1/21 | *****6180 | K. E. M. Group LLC | DD - ES | **1,830.00** |
| 110121200 | 11/1/21 | *****9411 | Anthony Keslinke | DD - ES | **3,512.00** |
| 110121201 | 11/1/21 | *****6230 | Kevin Moffett | DD - ES | **2,318.00** |
| 110121202 | 11/1/21 | *****2578 | Faraz Ali Khan | DD - ES | **1,436.00** |
| 110121203 | 11/1/21 | *****0888 | KW Kirker Creek, LLC | DD - ES | **3,021.00** |
| 110121204 | 11/1/21 | *****9221 | John N Kitta | DD - ES | **2,784.00** |
| 110121205 | 11/1/21 | *****7475 | Qi Yun Kuang | DD - ES | **6,293.00** |
| 110121206 | 11/1/21 | *****8506 | Simon Kailiang Kuang | DD - ES | **1,659.00** |
| 110121207 | 11/1/21 | *****9316 | Zdzislaw Kujawa | DD - ES | **1,335.00** |
| 110121208 | 11/1/21 | *****2585 | Daniel Kwan | DD - ES | **3,371.00** |
| 110121209 | 11/1/21 | *****8326 | Thomas LaFleur | DD - ES | **1,480.00** |
| 110121210 | 11/1/21 | *****7845 | Chow Kang Lam | DD - ES | **1,415.00** |
| 110121211 | 11/1/21 | *****6520 | Shirley Manly-Lampkin | DD - ES | **1,051.00** |
| 110121212 | 11/1/21 | *****7975 | Peter C. Larsen | DD - ES | **1,454.00** |
| 110121213 | 11/1/21 | *****2401 | Kevin Lassair<br>Terrilyn Lassair | DD - ES | **1,175.00** |
| 110121214 | 11/1/21 | *****4732 | Latif, LLC | DD - ES | **2,628.00** |
| 110121215 | 11/1/21 | *****2293 | LCSTAR, LLC | DD - ES | **4,112.00** |
| 110121216 | 11/1/21 | *****0984 | Dao Tran Le | DD - ES | **2,018.00** |
| 110121217 | 11/1/21 | *****8548 | Jack Wai Lee | DD - ES | **2,370.00** |

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| 110121218 | 11/1/21 | *****1755 | Siu Wan Windytiti Lee | DD - ES | **2,235.00** |
| 110121219 | 11/1/21 | *****2527 | Steven Lee | DD - ES | **1,664.00** |
| 110121220 | 11/1/21 | *****5289 | Yuhjen Juang Lee | DD - ES | **1,899.00** |
| 110121221 | 11/1/21 | *****7087 | Huy Nguyen Le | DD - ES | **2,461.00** |
| 110121222 | 11/1/21 | *****1860 | Lena Le | DD - ES | **714.00** |
| 110121223 | 11/1/21 | *****3782 | Joseph C. Lerma | DD - ES | **1,420.00** |
| 110121224 | 11/1/21 | *****3555 | Yiping I. and Frederic Leroudier | DD - ES | **1,298.00** |
| 110121225 | 11/1/21 | *****3410 | John M. Leung | DD - ES | **8,014.00** |
| 110121226 | 11/1/21 | *****3743 | May Leung or Rodney Chen | DD - ES | **3,770.00** |
| 110121227 | 11/1/21 | *****2110 | Peter Leung | DD - ES | **2,499.00** |
| 110121228 | 11/1/21 | *****3386 | James J. Busby and Irvin Deutcher a Partnership DBA Crestview Apartments | DD - ES | **8,521.00** |
| 110121229 | 11/1/21 | *****0416 | Faqiang Li | DD - ES | **2,449.00** |
| 110121230 | 11/1/21 | *****8871 | Jie Li | DD - ES | **1,762.00** |
| 110121231 | 11/1/21 | *****7827 | Jinhuan Li | DD - ES | **1,505.00** |
| 110121232 | 11/1/21 | *****9346 | Joshua Li | DD - ES | **1,123.00** |
| 110121233 | 11/1/21 | *****2649 | Tim Lindstrom<br>c/o AAA Property Management | DD - ES | **1,166.00** |
| 110121234 | 11/1/21 | *****3881 | Vivian Y Li | DD - ES | **1,226.00** |
| 110121236 | 11/1/21 | *****0050 | Wei Min Li | DD - ES | **2,202.00** |
| 110121237 | 11/1/21 | *****9003 | Ying Hong Li | DD - ES | **1,357.00** |
| 110121238 | 11/1/21 | *****0198 | Belkis Zhong Li | DD - ES | **2,596.00** |
| 110121239 | 11/1/21 | *****1646 | Paul Long | DD - ES | **2,001.00** |
| 110121240 | 11/1/21 | *****1474 | Los Medanos Village Apartments | DD - ES | **14,235.00** |
| 110121241 | 11/1/21 | *****7531 | Tony or Yvonne Louie | DD - ES | **1,425.00** |
| 110121242 | 11/1/21 | *****3708 | Anthony Charles Loyola | DD - ES | **547.00** |
| 110121243 | 11/1/21 | *****7720 | Jose Loza | DD - ES | **883.00** |
| 110121244 | 11/1/21 | *****2354 | Andrew Kin Lui | DD - ES | **2,383.00** |
| 110121245 | 11/1/21 | *****4658 | Wei Liu<br>Guangxin Frank Liu | DD - ES | **1,482.00** |
| 110121246 | 11/1/21 | *****7843 | The Entrust Group, Inc. FBO Theodore Lum IRA (acct #34892) | DD - ES | **1,374.00** |
| 110121247 | 11/1/21 | *****1821 | Curtis H. Lundberg | DD - ES | **560.00** |
| 110121248 | 11/1/21 | *****1494 | Xiangwen Lu | DD - ES | **4,962.00** |
| 110121249 | 11/1/21 | *****2147 | Chi Vien Ly | DD - ES | **1,301.00** |
| 110121250 | 11/1/21 | *****6525 | Madelyn Ann Massey<br>Trustee of the 2017 Massey Family Trust | DD - ES | **1,683.00** |
| 110121251 | 11/1/21 | *****5865 | Rakesh Madra | DD - ES | **3,152.00** |
| 110121252 | 11/1/21 | *****2191 | Radha Mahesram | DD - ES | **2,240.00** |
| 110121253 | 11/1/21 | *****7358 | Mahnoor Tariq | DD - ES | **2,452.00** |
| 110121254 | 11/1/21 | *****4372 | Jennifer Leung Ma | DD - ES | **3,662.00** |
| 110121255 | 11/1/21 | *****1989 | Jeff Mann | DD - ES | **7,114.00** |

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| 110121256 | 11/1/21 | *****5378 | Glenn Marshall | DD - ES | **2,403.00** |
| 110121257 | 11/1/21 | *****2875 | Marla Y Harrison | DD - ES | **527.00** |
| 110121258 | 11/1/21 | *****4697 | Elisa Aurora Martinez | DD - ES | **2,746.00** |
| 110121259 | 11/1/21 | *****9206 | Demetria d Mason | DD - ES | **2,624.00** |
| 110121260 | 11/1/21 | *****9994 | Matthew Lui | DD - ES | **1,647.00** |
| 110121261 | 11/1/21 | *****6768 | Matrixone Realty | DD - ES | **1,091.00** |
| 110121263 | 11/1/21 | *****5255 | Helen McCarthy | DD - ES | **1,933.00** |
| 110121264 | 11/1/21 | *****1152 | Janice K McLean | DD - ES | **2,088.00** |
| 110121265 | 11/1/21 | *****4675 | Meadow Glen Apartments | DD - ES | **1,925.00** |
| 110121266 | 11/1/21 | *****9866 | Tatung Mei | DD - ES | **3,564.00** |
| 110121267 | 11/1/21 | *****5245 | Jinyu Meng | DD - ES | **1,653.00** |
| 110121268 | 11/1/21 | *****4885 | Sabine Menzel | DD - ES | **4,611.00** |
| 110121269 | 11/1/21 | *****0133 | Mercedes P. Johnson | DD - ES | **748.00** |
| 110121270 | 11/1/21 | *****8272 | Hector Meza | DD - ES | **932.00** |
| 110121271 | 11/1/21 | *****9885 | Andrew S Miloslavich | DD - ES | **1,904.00** |
| 110121272 | 11/1/21 | *****7437 | Perchak Properties for Carol Miller | DD - ES | **2,244.00** |
| 110121273 | 11/1/21 | *****4000 | Millennium Homes | DD - ES | **2,012.00** |
| 110121274 | 11/1/21 | *****9782 | Maryann Miller | DD - ES | **1,856.00** |
| 110121275 | 11/1/21 | *****2618 | Carlos J Miranda | DD - ES | **579.00** |
| 110121276 | 11/1/21 | *****0772 | Hassan Mirabedi | DD - ES | **7,892.00** |
| 110121277 | 11/1/21 | *****6741 | Gwendolyn Mitchell | DD - ES | **4,351.00** |
| 110121278 | 11/1/21 | *****4885 | Momin Raees | DD - ES | **1,824.00** |
| 110121279 | 11/1/21 | *****0985 | Rodney Montgomery<br>or Sharon Montgomery | DD - ES | **1,652.00** |
| 110121280 | 11/1/21 | *****4676 | Erik L Morris | DD - ES | **1,874.00** |
| 110121281 | 11/1/21 | *****3624 | Diane Morin | DD - ES | **1,990.00** |
| 110121282 | 11/1/21 | *****8820 | Brien Brothers, LLC<br>C/O Mynd Management, IC. | DD - ES | **803.00** |
| 110121283 | 11/1/21 | *****1388 | Mynd Management Inc, | DD - ES | **4,155.00** |
| 110121284 | 11/1/21 | *****0105 | Ehsan Nabkel | DD - ES | **3,552.00** |
| 110121285 | 11/1/21 | *****6234 | Shinder Paul Narabut | DD - ES | **6,828.00** |
| 110121286 | 11/1/21 | *****0054 | NC Associates, Inc. | DD - ES | **16,899.00** |
| 110121287 | 11/1/21 | *****9180 | Michael Nelson | DD - ES | **2,938.00** |
| 110121288 | 11/1/21 | *****5257 | Guy Nesbeth | DD - ES | **1,741.00** |
| 110121289 | 11/1/21 | *****1072 | Dominic Y Ng | DD - ES | **2,857.00** |
| 110121290 | 11/1/21 | *****3604 | Knowland Ging Ng | DD - ES | **2,083.00** |
| 110121291 | 11/1/21 | *****8594 | Patrick Ng<br>Mike Perry, Property Manager | DD - ES | **1,321.00** |
| 110121292 | 11/1/21 | *****0738 | Hieu Nguyen | DD - ES | **1,642.00** |
| 110121293 | 11/1/21 | *****7154 | Huy Quang Nguyen | DD - ES | **2,162.00** |
| 110121294 | 11/1/21 | *****8307 | Mai Thi Thanh Nguyen | DD - ES | **1,925.00** |
| 110121295 | 11/1/21 | *****4366 | Quyen Nguyen | DD - ES | **1,857.00** |

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| 110121296 | 11/1/21 | *****8241 | Tieu Nguyen | DD - ES | **688.00** |
| 110121297 | 11/1/21 | *****2660 | Nichole Nicholson | DD - ES | **2,500.00** |
| 110121298 | 11/1/21 | *****7265 | Ernest Nichols III | DD - ES | **3,323.00** |
| 110121299 | 11/1/21 | *****6497 | Peter Niloufari | DD - ES | **5,425.00** |
| 110121301 | 11/1/21 | *****8129 | Kevin Nord | DD - ES | **1,690.00** |
| 110121302 | 11/1/21 | *****0056 | Richard A Norte | DD - ES | **1,915.00** |
| 110121303 | 11/1/21 | *****2286 | North State Financial, Inc. | DD - ES | **1,094.00** |
| 110121304 | 11/1/21 | *****7171 | New Way Management Services, Inc. | DD - ES | **19,860.00** |
| 110121305 | 11/1/21 | *****0056 | Sheryl O'Brien | DD - ES | **882.00** |
| 110121306 | 11/1/21 | *****1194 | Jennifer Odei | DD - ES | **1,484.00** |
| 110121307 | 11/1/21 | *****5572 | Dwight J Owens | DD - ES | **643.00** |
| 110121308 | 11/1/21 | *****1780 | Diane Oles | DD - ES | **1,694.00** |
| 110121309 | 11/1/21 | *****4543 | Esosa A. Omokaro | DD - ES | **1,932.00** |
| 110121310 | 11/1/21 | *****3741 | Sandra L Ortiz | DD - ES | **1,785.00** |
| 110121311 | 11/1/21 | *****1081 | Chinenye Osuagwu | DD - ES | **2,716.00** |
| 110121312 | 11/1/21 | *****3324 | Mutlu Ozer | DD - ES | **2,577.00** |
| 110121313 | 11/1/21 | *****6009 | Diablo Pacific, Inc. | DD - ES | **3,297.00** |
| 110121314 | 11/1/21 | *****4083 | Pacific Living, LLC | DD - ES | **2,769.00** |
| 110121315 | 11/1/21 | *****7811 | Hemangini & Vijendra Patel | DD - ES | **2,800.00** |
| 110121316 | 11/1/21 | *****0885 | Kokila Patel | DD - ES | **787.00** |
| 110121317 | 11/1/21 | *****0346 | Patiala, LLC<br>Deepinder Kaur or Ajay Singh | DD - ES | **1,282.00** |
| 110121318 | 11/1/21 | *****8684 | Virendra M. Patel | DD - ES | **574.00** |
| 110121319 | 11/1/21 | *****8047 | Jason Pauline | DD - ES | **1,760.00** |
| 110121320 | 11/1/21 | *****3189 | Loycell Peacock | DD - ES | **1,391.00** |
| 110121321 | 11/1/21 | *****5165 | Scott Pease | DD - ES | **1,272.00** |
| 110121322 | 11/1/21 | *****8805 | Alonso R. Perez | DD - ES | **1,486.00** |
| 110121323 | 11/1/21 | *****3278 | Maria Del Carmen Perez | DD - ES | **268.00** |
| 110121324 | 11/1/21 | *****6784 | Lowde Y. Perkins | DD - ES | **922.00** |
| 110121325 | 11/1/21 | *****4893 | Cong Thi Pham | DD - ES | **1,922.00** |
| 110121326 | 11/1/21 | *****5884 | May K. Pho | DD - ES | **2,583.00** |
| 110121327 | 11/1/21 | *****0958 | Pittsburg Park Apartments | DD - ES | **2,952.00** |
| 110121328 | 11/1/21 | *****2744 | SK Pittsburg Bay Point<br>SK Pittsburg Bay Point | DD - ES | **1,458.00** |
| 110121329 | 11/1/21 | *****1097 | Bay Point Orphans Fund, LLC | DD - ES | **1,712.00** |
| 110121330 | 11/1/21 | *****8826 | Prime Metropolis Properties, Inc. | DD - ES | **2,486.00** |
| 110121331 | 11/1/21 | *****2849 | IH5 Property West LP | DD - ES | **1,769.00** |
| 110121332 | 11/1/21 | *****3398 | Marples Property Management | DD - ES | **1,870.00** |
| 110121333 | 11/1/21 | *****4650 | A. Meadows Property Management | DD - ES | **3,352.00** |
| 110121334 | 11/1/21 | *****6551 | Parks Property Management | DD - ES | **1,711.00** |
| 110121335 | 11/1/21 | *****7789 | Stokley Properties LLC Harbor | DD - ES | **3,174.00** |

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| 110121336 | 11/1/21 | *****8055 | Property Upsurge, Inc. | DD - ES | **4,252.00** |
| 110121337 | 11/1/21 | *****0782 | Amjad Qaqish | DD - ES | **835.00** |
| 110121338 | 11/1/21 | *****9542 | Sam or Sonia Quinones | DD - ES | **1,800.00** |
| 110121339 | 11/1/21 | *****4029 | Amos Radford | DD - ES | **1,387.00** |
| 110121340 | 11/1/21 | *****1034 | Kuljit P Raju | DD - ES | **1,819.00** |
| 110121341 | 11/1/21 | *****2261 | Paramjit K. Raju | DD - ES | **2,254.00** |
| 110121342 | 11/1/21 | *****3452 | Christopher Ramirez | DD - ES | **2,042.00** |
| 110121343 | 11/1/21 | *****8489 | Enrique or Stacy Ramirez | DD - ES | **531.00** |
| 110121344 | 11/1/21 | *****2162 | Erika Ramirez | DD - ES | **1,345.00** |
| 110121346 | 11/1/21 | *****2283 | Rohini Ram-Cline | DD - ES | **1,957.00** |
| 110121347 | 11/1/21 | *****6068 | David Raughton | DD - ES | **1,933.00** |
| 110121348 | 11/1/21 | *****8337 | RayCaro Inc. | DD - ES | **1,581.00** |
| 110121349 | 11/1/21 | *****8227 | Croskey Real Estate, Inc. | DD - ES | **1,605.00** |
| 110121350 | 11/1/21 | *****6703 | Amerasia Real Estate Fund LLC | DD - ES | **3,628.00** |
| 110121351 | 11/1/21 | *****7083 | Reliant - Woods Grove, LP | DD - ES | **23,072.00** |
| 110121352 | 11/1/21 | *****7349 | Eric Franklin Remson | DD - ES | **538.00** |
| 110121353 | 11/1/21 | *****3881 | RH Portofino Owner CA LLC | DD - ES | **14,738.00** |
| 110121354 | 11/1/21 | *****9215 | Kameryn Victoria Ray | DD - ES | **1,964.00** |
| 110121355 | 11/1/21 | *****9321 | Roger Riley | DD - ES | **1,901.00** |
| 110121356 | 11/1/21 | *****4562 | Rising Investments LLC | DD - ES | **6,880.00** |
| 110121357 | 11/1/21 | *****4809 | Robert W. Daniels | DD - ES | **2,679.00** |
| 110121358 | 11/1/21 | *****0694 | Jason Ruffin | DD - ES | **2,504.00** |
| 110121359 | 11/1/21 | *****4579 | Elvira Ruiz | DD - ES | **1,746.00** |
| 110121360 | 11/1/21 | *****5248 | Constance Russell | DD - ES | **2,300.00** |
| 110121361 | 11/1/21 | *****3871 | Maridel P Santos | DD - ES | **1,649.00** |
| 110121362 | 11/1/21 | *****7615 | Gregory Paul Schulz | DD - ES | **1,188.00** |
| 110121363 | 11/1/21 | *****9954 | Richard M. Sciortino | DD - ES | **2,284.00** |
| 110121364 | 11/1/21 | *****7031 | Jacqueline Selinger | DD - ES | **1,658.00** |
| 110121365 | 11/1/21 | *****5346 | Young Sook Seroy | DD - ES | **1,566.00** |
| 110121366 | 11/1/21 | *****6765 | SETRC, LLC | DD - ES | **2,559.00** |
| 110121367 | 11/1/21 | *****1446 | Mohinder Sharma | DD - ES | **1,016.00** |
| 110121368 | 11/1/21 | *****7239 | Shailesh & Bela Patel | DD - ES | **1,212.00** |
| 110121369 | 11/1/21 | *****1357 | Mohammad Shekib | DD - ES | **1,939.00** |
| 110121370 | 11/1/21 | *****5981 | Yihui Shi | DD - ES | **1,535.00** |
| 110121371 | 11/1/21 | *****5994 | Shorten Investments LLC | DD - ES | **5,373.00** |
| 110121372 | 11/1/21 | *****7396 | Sierra Pacific Properties Inc<br>Sierra Pacific Properties Inc | DD - ES | **9,399.00** |
| 110121373 | 11/1/21 | *****7789 | Siena Court Apartments | DD - ES | **15,277.00** |
| 110121374 | 11/1/21 | *****7396 | Sierra Pacific Properties<br>Peppertree Apartments | DD - ES | **4,337.00** |
| 110121375 | 11/1/21 | *****7396 | Sierra Pacific Properties<br>Woodland Hills Apartments | DD - ES | **27,123.00** |

| | | | | | |
|---|---|---|---|---|---|
| 110121376 | 11/1/21 | *****6650 | Frank M. Siino | DD - ES | **982.00** |
| 110121377 | 11/1/21 | *****8035 | Joseph Michael Siino | DD - ES | **1,530.00** |
| 110121378 | 11/1/21 | *****5399 | Gloria Silva | DD - ES | **506.00** |
| 110121379 | 11/1/21 | *****8407 | Marc J. Simpson | DD - ES | **1,688.00** |
| 110121380 | 11/1/21 | *****6058 | Son Singh | DD - ES | **1,500.00** |
| 110121381 | 11/1/21 | *****0700 | Crystal Situ | DD - ES | **1,270.00** |
| 110121382 | 11/1/21 | *****3853 | Lakesha Michelle Smith<br>Lionel R Smith | DD - ES | **1,975.00** |
| 110121383 | 11/1/21 | *****4970 | Molly Smith | DD - ES | **1,898.00** |
| 110121384 | 11/1/21 | *****9092 | Sherritta M Smith | DD - ES | **945.00** |
| 110121385 | 11/1/21 | *****2032 | Cinthia Sosa | DD - ES | **2,473.00** |
| 110121386 | 11/1/21 | *****6977 | Angela E. Robinson-Spencer | DD - ES | **2,131.00** |
| 110121388 | 11/1/21 | *****5343 | Deborah Steppe | DD - ES | **1,784.00** |
| 110121389 | 11/1/21 | *****5308 | Darice Streeter<br>c/o R R Rentals | DD - ES | **1,900.00** |
| 110121391 | 11/1/21 | *****8216 | Abby Sukarto | DD - ES | **3,581.00** |
| 110121392 | 11/1/21 | *****7479 | Ms. Li Su | DD - ES | **1,351.00** |
| 110121393 | 11/1/21 | *****1235 | Summit Venture Group, LLC | DD - ES | **2,701.00** |
| 110121394 | 11/1/21 | *****6168 | Kamaljeet Surila | DD - ES | **1,754.00** |
| 110121395 | 11/1/21 | *****0804 | Svetlana Kondratiouk | DD - ES | **3,040.00** |
| 110121396 | 11/1/21 | *****0399 | Joyce Hui Sy | DD - ES | **7,715.00** |
| 110121397 | 11/1/21 | *****3065 | Tasharie C. Ameral | DD - ES | **1,609.00** |
| 110121398 | 11/1/21 | *****6283 | Yun Teng<br>Weijie Zhang | DD - ES | **1,892.00** |
| 110121399 | 11/1/21 | *****9166 | Ms. Natasha Terry | DD - ES | **2,675.00** |
| 110121400 | 11/1/21 | *****2164 | Quyen Minh Thai | DD - ES | **2,875.00** |
| 110121401 | 11/1/21 | *****9314 | Silvia Thein and Ada Choi | DD - ES | **2,200.00** |
| 110121402 | 11/1/21 | *****7191 | Tequila Nashannon Thornton | DD - ES | **2,654.00** |
| 110121403 | 11/1/21 | *****4049 | ChingJen Tong | DD - ES | **2,229.00** |
| 110121404 | 11/1/21 | *****1714 | Yoway Wilson Tong | DD - ES | **1,486.00** |
| 110121405 | 11/1/21 | *****1405 | Lourdes or Raymond Tovar | DD - ES | **1,374.00** |
| 110121406 | 11/1/21 | *****2094 | Raphael Minhtuyen Tran | DD - ES | **2,923.00** |
| 110121407 | 11/1/21 | *****8623 | Richard Tran | DD - ES | **2,783.00** |
| 110121408 | 11/1/21 | *****1327 | Thuy Tran | DD - ES | **1,148.00** |
| 110121409 | 11/1/21 | *****6165 | Thanh Van Trinh | DD - ES | **1,422.00** |
| 110121410 | 11/1/21 | *****5313 | Sean Thuyet Truong | DD - ES | **1,094.00** |
| 110121411 | 11/1/21 | *****9321 | Van Truong | DD - ES | **1,717.00** |
| 110121412 | 11/1/21 | *****6917 | Erica Uschold | DD - ES | **2,950.00** |
| 110121413 | 11/1/21 | *****4582 | Lidia Valladares | DD - ES | **1,169.00** |
| 110121414 | 11/1/21 | *****0250 | Victor D Valenzuela | DD - ES | **1,498.00** |
| 110121415 | 11/1/21 | *****3371 | Gary D. Vasconcellos | DD - ES | **1,550.00** |

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| | | | | | |
|---|---|---|---|---|---|
| 110121416 | 11/1/21 | *****9682 | Nuno G Vieira | DD - ES | **4,350.00** |
| 110121417 | 11/1/21 | *****7391 | Kim Uyen Minh Vu | DD - ES | **1,239.00** |
| 110121418 | 11/1/21 | *****2720 | Stephen Cordell Wafer | DD - ES | **1,213.00** |
| 110121419 | 11/1/21 | *****6924 | Lining Wan | DD - ES | **2,699.00** |
| 110121420 | 11/1/21 | *****6945 | Wei Wang | DD - ES | **2,032.00** |
| 110121421 | 11/1/21 | *****1634 | Yu Ruo Wang | DD - ES | **1,781.00** |
| 110121422 | 11/1/21 | *****7593 | Ms. Brigitte Warren<br>C/O Perry Realty Team | DD - ES | **2,583.00** |
| 110121423 | 11/1/21 | *****5502 | Mildred Lucille Washington | DD - ES | **1,996.00** |
| 110121425 | 11/1/21 | *****4384 | Wenying Chang | DD - ES | **3,422.00** |
| 110121426 | 11/1/21 | *****5295 | Holly Wen | DD - ES | **651.00** |
| 110121427 | 11/1/21 | *****4908 | Lewis White & Ruth White<br>Elma Ruth White | DD - ES | **4,904.00** |
| 110121428 | 11/1/21 | *****6220 | Fenny Wijayanti | DD - ES | **2,165.00** |
| 110121429 | 11/1/21 | *****7867 | Ms Adrienne Wilson<br>C/O Gabe Essoe | DD - ES | **1,951.00** |
| 110121430 | 11/1/21 | *****5057 | Kathleen and John Wilson | DD - ES | **936.00** |
| 110121431 | 11/1/21 | *****8702 | Kathy D. Williams | DD - ES | **2,207.00** |
| 110121432 | 11/1/21 | *****5480 | Tasia La Vonda Williams | DD - ES | **2,800.00** |
| 110121433 | 11/1/21 | *****5026 | Windeler Development Group, Inc. | DD - ES | **999.00** |
| 110121434 | 11/1/21 | *****1157 | Har Pan Wong | DD - ES | **8,941.00** |
| 110121435 | 11/1/21 | *****6356 | Joanne Wong | DD - ES | **1,702.00** |
| 110121436 | 11/1/21 | *****1060 | Kinney Ming Wong | DD - ES | **508.00** |
| 110121437 | 11/1/21 | *****2784 | Vincent Wong | DD - ES | **1,818.00** |
| 110121438 | 11/1/21 | *****3962 | Hong Wu | DD - ES | **3,728.00** |
| 110121439 | 11/1/21 | *****3698 | Zhang Jin Wu | DD - ES | **2,701.00** |
| 110121440 | 11/1/21 | *****2556 | Drewcillia Wyatt | DD - ES | **3,942.00** |
| 110121441 | 11/1/21 | *****2651 | Sheree Wynn | DD - ES | **2,219.00** |
| 110121442 | 11/1/21 | *****4644 | Chao Xu | DD - ES | **2,940.00** |
| 110121443 | 11/1/21 | *****3880 | Ping Ping Xu<br>Keming Wang | DD - ES | **2,725.00** |
| 110121444 | 11/1/21 | *****5087 | Zhou Xu | DD - ES | **2,853.00** |
| 110121445 | 11/1/21 | *****4383 | Yifan Ye<br>Mike Perry, Property Manager | DD - ES | **2,512.00** |
| 110121446 | 11/1/21 | *****6779 | Sally Yip | DD - ES | **912.00** |
| 110121447 | 11/1/21 | *****6210 | Yong Qiang Lu | DD - ES | **1,790.00** |
| 110121448 | 11/1/21 | *****6178 | Chris Kui You | DD - ES | **2,407.00** |
| 110121449 | 11/1/21 | *****7622 | Yee Yue Cheung | DD - ES | **1,295.00** |
| 110121450 | 11/1/21 | *****8664 | Mohammad Zalmaiyar | DD - ES | **2,455.00** |
| 110121451 | 11/1/21 | *****8685 | Feng Zhang | DD - ES | **2,726.00** |
| 110121452 | 11/1/21 | *****7638 | Jielu Zhao | DD - ES | **1,412.00** |
| 110121453 | 11/1/21 | *****2407 | Katherine Zhao | DD - ES | **2,721.00** |

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|---|---|---|---|---|---|
| 110121454 | 11/1/21 | *****2940 | Wei Bin Zhang or Gao Wei | DD - ES | **1,966.00** |
| 110121455 | 11/1/21 | *****3259 | Xirong Zhao | DD - ES | **1,939.00** |
| 110121456 | 11/1/21 | *****5640 | Yan Zhang | DD - ES | **1,637.00** |
| 110121457 | 11/1/21 | *****4367 | Xiang Yang Zheng | DD - ES | **1,899.00** |
| 110121458 | 11/1/21 | *****9263 | Zhixing Li | DD - ES | **2,461.00** |
| 110121459 | 11/1/21 | *****3830 | Joy Yi Zhou | DD - ES | **1,932.00** |
| 110121460 | 11/1/21 | *****7805 | Shengguo Zhu | DD - ES | **5,365.00** |
| 110121461 | 11/1/21 | *****6132 | Ying Zhu<br>Ying Zhu | DD - ES | **5,224.00** |
| 110121462 | 11/1/21 | *****4651 | Weijie Zhang | DD - ES | **1,333.00** |

**Housing Choice Voucher**

| | |
|---|---|
| HAP | 1,504,741.68 |
| UR | 10,608.32 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | -806.72 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$1,514,543.28** |

# Check Summary

November 1, 2021

| Check Number | Check Date | Payee Tax ID | Payee | Amount |
|---|---|---|---|---|
| **VASH** | | | | |
| 50230 | 11/1/21 | *****8792 | James E Phifer Jr. | **22.00** |
| 50233 | 11/1/21 | *****2062 | John M Ferguson | **71.00** |
| 50241 | 11/1/21 | *****5735 | Michael Wimmer | **122.00** |
| 50249 | 11/1/21 | *****7845 | Troy Mills | **29.00** |
| 50295 | 11/1/21 | *****9543 | Steven Williamson | **52.00** |
| 50322 | 11/1/21 | *****9325 | JOW & AAW, LLC | **2,109.00** |
| 50324 | 11/1/21 | *****9326 | Western Addition Apartments, LLC | **1,483.00** |
| 50326 | 11/1/21 | *****1636 | Jimmy Bhatia | **1,172.00** |
| 50328 | 11/1/21 | *****2361 | George Edward Cole | **1,267.00** |
| 50342 | 11/1/21 | *****2116 | MSR Rental Properties, LLC<br>C/O EEN Property Management | **1,700.00** |
| 50347 | 11/1/21 | *****5770 | Ventana Rental Homes | **1,766.00** |
| 50352 | 11/1/21 | *****9507 | Olga M. Disney | **1,354.00** |
| 50354 | 11/1/21 | *****7378 | Marina Heights Apartments, LP | **3,272.00** |
| 50355 | 11/1/21 | *****7378 | Marina Heights Apartments, LP | **3,187.00** |

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| | | | | | |
|---|---|---|---|---|---|
| 50356 | 11/1/21 | *****7378 | Marina Heights Apartments, LP | | **1,103.00** |
| 110121011 | 11/1/21 | *****4636 | Felipe Amarante | DD - ES | **1,483.00** |
| 110121022 | 11/1/21 | *****3909 | Ken Bartlett | DD - ES | **1,370.00** |
| 110121027 | 11/1/21 | *****7492 | Adrienne Kelly Belton | DD - ES | **720.00** |
| 110121036 | 11/1/21 | *****7075 | Som N Bhatia | DD - ES | **1,261.00** |
| 110121049 | 11/1/21 | *****8860 | Joe Burns | DD - ES | **1,079.00** |
| 110121050 | 11/1/21 | *****2513 | Clara Beatriz Cardenas | DD - ES | **1,677.00** |
| 110121071 | 11/1/21 | *****0746 | Contra Costa County Housing Authority | DD - ES | **-1,125.14** |
| 110121072 | 11/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **3,725.00** |
| 110121073 | 11/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **5,789.00** |
| 110121074 | 11/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **5,734.00** |
| 110121075 | 11/1/21 | *****3772 | Creekside Apartment Investors LLC<br>DBA Creekside Village | DD - ES | **1,173.00** |
| 110121097 | 11/1/21 | *****3406 | Mercy Housing California XXXVIII<br>East Leland Court Apartments | DD - ES | **600.00** |
| 110121112 | 11/1/21 | *****4032 | Fox Creek Apartments | DD - ES | **789.00** |
| 110121115 | 11/1/21 | *****4432 | FRR Investments LLC | DD - ES | **1,822.00** |
| 110121126 | 11/1/21 | *****5111 | Gateway Apartments | DD - ES | **3,656.00** |
| 110121145 | 11/1/21 | *****5267 | Abhilash Gupta | DD - ES | **1,729.00** |
| 110121157 | 11/1/21 | *****6728 | David T. Hennigan | DD - ES | **-116.00** |
| 110121224 | 11/1/21 | *****3555 | Yiping I. and Frederic Leroudier | DD - ES | **2,472.00** |
| 110121228 | 11/1/21 | *****3386 | James J. Busby and Irvin Deutcher a Partnership DBA<br>Crestview Apartments | DD - ES | **1,222.00** |
| 110121235 | 11/1/21 | *****1547 | Paul Livson | DD - ES | **3,074.00** |
| 110121248 | 11/1/21 | *****1494 | Xiangwen Lu | DD - ES | **3,545.00** |
| 110121262 | 11/1/21 | *****2242 | James McDonald | DD - ES | **1,500.00** |
| 110121300 | 11/1/21 | *****9886 | Northstar Financial Group, LLC | DD - ES | **1,604.00** |
| 110121345 | 11/1/21 | *****7228 | Ramsey Horton | DD - ES | **1,685.00** |
| 110121350 | 11/1/21 | *****6703 | Amerasia Real Estate Fund LLC | DD - ES | **1,662.00** |
| 110121351 | 11/1/21 | *****7083 | Reliant - Woods Grove, LP | DD - ES | **2,684.00** |
| 110121372 | 11/1/21 | *****7396 | Sierra Pacific Properties Inc<br>Sierra Pacific Properties Inc | DD - ES | **4,039.00** |
| 110121373 | 11/1/21 | *****7789 | Siena Court Apartments | DD - ES | **1,165.00** |
| 110121374 | 11/1/21 | *****7396 | Sierra Pacific Properties<br>Peppertree Apartments | DD - ES | **2,815.00** |
| 110121375 | 11/1/21 | *****7396 | Sierra Pacific Properties<br>Woodland Hills Apartments | DD - ES | **1,893.00** |
| 110121387 | 11/1/21 | *****3465 | Ramzi D Srouji | DD - ES | **1,957.00** |
| 110121390 | 11/1/21 | *****0437 | Suisun City Housing Authority | DD - ES | **1,420.44** |
| 110121406 | 11/1/21 | *****2094 | Raphael Minhtuyen Tran | DD - ES | **1,713.00** |

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|---|---|---|---|---|---|
| 110121424 | 11/1/21 | *****4563 | Isidoro Weitzman | DD - ES | **1,957.00** |
| 110121427 | 11/1/21 | *****4908 | Lewis White & Ruth White<br>Elma Ruth White | DD - ES | **1,294.00** |

**VASH**

| | |
|---|---|
| HAP | 87,166.44 |
| UR | 296.00 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | 313.86 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$87,776.30** |

**Grand Total**

| | |
|---|---|
| HAP | 1,591,908.12 |
| UR | 10,904.32 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | -492.86 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$1,602,319.58** |

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# Check Summary

November 15, 2021

| | Check Number | Check Date | Payee Tax ID | Payee | | Amount |
|---|---|---|---|---|---|---|
| **Housing Choice Voucher** | | | | | | |
| * | 50357 | 11/15/21 | *****3817 | Tameka T Thomas | | **277.00** |
| | 50358 | 11/15/21 | *****8240 | Vanna L Warga | | **215.00** |
| | 50359 | 11/15/21 | *****0912 | Nicolas A Wagnon | | **36.00** |
| | 50360 | 11/15/21 | *****9937 | Lisa F Jackson | | **265.00** |
| | 50361 | 11/15/21 | *****6825 | A Classey Corp.<br>DBA: ACL Property Management | | **717.00** |
| | 50362 | 11/15/21 | *****3302 | Susana Paduro-Silva | | **2,568.00** |
| | 50363 | 11/15/21 | *****7378 | Marina Heights Apartments, LP | | **876.00** |
| * | 111521001 | 11/15/21 | *****5708 | David Elmer Cortesi | DD - ES | **218.00** |
| | 111521002 | 11/15/21 | *****3566 | Mahavir Gill<br>Mahavir S Gill Sr | DD - ES | **181.00** |
| | 111521003 | 11/15/21 | *****6728 | David T. Hennigan | DD - ES | **776.00** |
| | 111521004 | 11/15/21 | *****4732 | Latif, LLC | DD - ES | **1,409.00** |
| | 111521005 | 11/15/21 | *****0772 | Hassan Mirabedi | DD - ES | **1,998.00** |
| | 111521006 | 11/15/21 | *****4885 | Momin Raees | DD - ES | **1,558.00** |
| | 111521007 | 11/15/21 | *****9139 | Olubukola Amoke Oyebade | DD - ES | **2,517.00** |
| | 111521008 | 11/15/21 | *****3239 | Veritel Homes LLC | DD - ES | **1,583.00** |
| | 111521009 | 11/15/21 | *****5310 | Azell Vickers | DD - ES | **3,844.00** |

| | | |
|---|---|---|
| **Housing Choice Voucher** | HAP | 18,245.00 |
| | UR | 793.00 |
| | Damage Claim | 0.00 |
| | Vacancy Claim | 0.00 |
| | Administrative Fee | 0.00 |
| | FSS Escrow Account | 0.00 |
| | Shelter Plus Security Deposit | 0.00 |
| | Other | 0.00 |
| | **All Payments** | **$19,038.00** |

# Check Summary

November 15, 2021

| Check Number | Check Date | Payee Tax ID | Payee | Amount |
|---|---|---|---|---|
| **VASH** | | | | |

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| | | | | |
|---|---|---|---|---|
| 111521003 | 11/15/21 | *****6728 | David T. Hennigan | DD - ES | **3,386.00** |

**VASH**

| | |
|---|---|
| HAP | 3,386.00 |
| UR | 0.00 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | 0.00 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$3,386.00** |

**Grand Total**

| | |
|---|---|
| HAP | 21,631.00 |
| UR | 793.00 |
| Damage Claim | 0.00 |
| Vacancy Claim | 0.00 |
| Administrative Fee | 0.00 |
| FSS Escrow Account | 0.00 |
| Shelter Plus Security Deposit | 0.00 |
| Other | 0.00 |
| **All Payments** | **$22,424.00** |

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**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption by Minute Order of Council Member Committee Assignments for 2022, and Confirmation of Posting of FPPC Form 806 "Agency Report of Public Official Appointments"

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

In accordance with the City of Pittsburg "Policy and Procedure for City Council" adopted by the City Council on September 4, 2001 by Resolution No. 01-9475, the Mayor and Vice-Mayor shall appoint individual Council Members to standing and ad hoc committees and such appointments shall be approved by the entire Council at its first meeting following reorganization. This also confirms posting of the FPPC Form 806 "Agency Report of Public Official Appointments."

## FISCAL IMPACT

There is no fiscal impact.

## RECOMMENDATION

Adopt by Minute Order the City Council Committee Assignments - 2022 attached as Exhibit A.

## BACKGROUND

California Government Code Section 36813 authorizes a City Council to establish rules and policies for the conduct of its proceedings. On September 4, 2001, the City Council adopted Resolution No. 01-9475 providing for rules and procedures for the conduct of Council business.

## SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

## STAFF ANALYSIS

In accordance with the rules and procedures, the Mayor and Vice-Mayor shall appoint individual Council Members to the standing and ad hoc committees. Prior to the appointments, individual Council Members may submit preferences for committee assignments. The list of appointments is then presented to the City Council for consideration at the first meeting following the annual reorganization.

Mayor White and Vice-Mayor Scales-Preston submit the proposed assignments set forth in Exhibit A for Council consideration and recommend adoption of the committee assignments for 2022.

Pursuant to Section 18705.5 of Title 2 of the California Code of Regulations, an updated FPPC Form 806, “Agency Report of Public Official Appointments” has been posted on the City’s website as well as on the board at City Hall.

ATTACHMENTS: Committee List – Exhibit A

Report Prepared By: Alice E. Evenson, City Clerk

# EXHIBIT A

## City Council Outside Agency / Liaison / Sub-Committees Assignments - 2022

**Updated December 20, 2021**

| OUTSIDE AGENCY BOARDS | COUNCIL MEMBER(S) | TYPE | MEETS | STAFF |
|---|---|---|---|---|
| ABAG | Shanelle Scales-Preston / Holland White Alt. | Standing | Annual | G. Evans |
| Delta Diablo** | Juan Banales / Shanelle Scales-Preston Alt. | Standing | 2nd Wednesday | R. Abono |
| East Co. Co. County Habitat Conservancy | Juan Banales / Jelani Killings Alternate | Standing | Monthly | Planning |
| East County Water Management | Juan Banales / Jelani Killings Alternate | Standing | Annual | R. Abono |
| MCE Clean Energy Board | Shanelle Scales-Preston / Holland White Alt. | Standing | 4 Per Year | D. Buchanan |
| TRANSPLAN / ECCRFFA | Holland White / Juan Banales Alternate | Standing | 2nd Thursday | R. Abono |
| Tri-Delta Transit (2 reps)*** | S. Scales-Preston & Merl Craft / Jelani Killings Alt. | Standing | Last Wednesday | R. Abono |

| LIAISON TO | COUNCIL MEMBER(S) | TYPE | MEETS | STAFF |
|---|---|---|---|---|
| East Bay League of Calif. Cities | Shanelle Scales-Preston / Merl Craft Alt. | Standing | 3rd Thursday | *Rotational |
| Mayor's Conference | Holland White / Shanelle Scales-Preston Alt. | Standing | 1st Thursday | G. Evans |
| School Districts Committee (2x2) | Shanelle Scales-Preston & Merl Craft / Jelani Killings Alt. | Standing | 2nd Thursday even months | G. Evans |

| SUBCOMMITTEES | COUNCIL MEMBER(S) | TYPE | MEETS | STAFF |
|---|---|---|---|---|
| American Rescue Plan Act (ARPA) | Holland White / S. Scales-Preston / Juan Banales Alt. | Ad Hoc | As needed | G. Evans |
| CAC CDBG Subcommittee | S. Scales-Preston & Jelani Killings / Holland White Alt. | Standing | As needed | M. Aliotti |
| City Council Policy and Procedures Review | Juan Banales & Merl Craft | Ad Hoc | As needed | G. Evans |
| City Infrastructure and Transportation (2) | S. Scales-Preston & Juan Banales / Holland White Alt. | Standing | As needed | G. Evans |
| Community Services Subcommittee | Merl Craft & Shanelle Scales-Preston / Juan Banales Alt. | Standing | As needed | M. Aliotti |
| Constituent Management Services | S. Scales-Preston & Juan Banales / Holland White Alt. | Ad Hoc | As needed | G. Evans |
| Government Performance Subcommittee | Holland White & Jelani Killings | Ad Hoc | As needed | G. Evans |
| Hills Committee | Juan Banales & Jelani Killings / Merl Craft Alt. | Ad Hoc | As needed | G. Evans |
| Pittsburg Recognition Committee | Holland White / Shanelle Scales-Preston Alt. | Standing | As needed | J. Hecht |
| Economic Develop/Waterfront Subcommittee | Jelani Killings & Holland White / S. Scales-Preston Alt. | Standing | As needed | J. Davis |
| Finance Subcommittee (1) | Juan Banales & Holland White / S. Scales-Preston Alt. | Standing | As needed | P. Rodrigues |
| Land Use Subcommittee (3) | Juan Banales & Holland White / S. Scales-Preston Alt. | Standing | As needed | J. Davis |
| Pittsburg Arts & Community Foundation | Merl Craft & S. Scales-Preston / Jelani Killings Alt. | Standing | As needed | G. Evans |
| Pittsburg Police Activities League (PAL) | Holland White & S. Scales-Preston / Jelani Killings Alt. | Standing | Monthly | B. Addington |
| Power Company Advisory | Holland White & S. Scales-Preston / Juan Banales Alt. | Standing | As needed | D. Buchanan |
| Public Safety Subcommittee | Holland White & Shanelle Scales-Preston | Standing | As needed | B. Addington |
| Sister City Committee | Jelani Killings & Holland White / Merl Craft Alt. | Standing | As needed | K. Simonton |

*Rotational Staff as assigned by City Manager
**Stipend of $170 per month
***Stipend of $100 per month

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution Approving and Allocating Funding for Project 3334, Broadcast System Upgrade Project

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

Project 3334, the Broadcast System Upgrade Project (the "Project") is to upgrade the broadcasting system in the Council Chamber to meet current and future broadcasting needs. If approved, this resolution will approve the Project and allocate funds.

## FISCAL IMPACT

If approved, this Resolution will authorize an allocation of $500,000 from Public, Education and Government (PEG) (Fund 227) for completion of the Project. This total is comprised of $245,000 from Fund 227 unallocated fund balance, and funds previously approved by the City Council with adoption of the Fiscal Year 2021-22 City budget. A Project Budget Summary is attached to this report.

## RECOMMENDATION

City Council adopt the attached Resolution approving Project 3334, Broadcast System Upgrade Project, and allocating $500,000 from PEG (Fund 227) to the Project.

## BACKGROUND

For the last 20 years, the City Hall Council Chamber has operated with a broadcasting system that is now outdated, and some of its components are obsolete. The Chamber is used by the City Council and other city commissions, as well as for staff training and meetings by other government agencies.

This Project will upgrade the broadcasting system to meet the current and future expectations for the City's broadcasting needs.

On June 21, 2021, the City Council adopted Resolution 21-13942, approving the City's operating budget for Fiscal Year 2021-22 and allocating $255,000 PEG (Fund 227) funds for a Council Chamber upgrade project.

## SUBCOMMITTEE FINDINGS

This item was not reviewed by a Subcommittee.

## STAFF ANALYSIS

The City needs to advance its Council Chamber audiovisual broadcast system to incorporate current technological standards and best practices for in-person, remote and hybrid meeting formats. The new broadcasting system will replace the existing system and provide for the presentation, recording and broadcasting of events, including City Council Meetings, Commission Meetings, training sessions and other meetings from the Council Chamber.

Staff issued a Request for Qualifications on September 22, 2021 and received proposals from four design consultants. After proposals were reviewed and consultant interviews completed, staff determined that Smith, Fause & McDonald Inc. was the most qualified. The proposal for design is $26,660. If approved, staff will execute the design contract.

The total cost of the project will be known once the design is complete and project bids are opened. The Project is scheduled to be completed by Summer 2022.

ATTACHMENTS: Resolution
Budget Summary
Consulting Services Agreement

Report Prepared By: Gina Haynes, Senior Civil Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Approving, and Allocating Funding For )
Project 3334, Broadcast System ) RESOLUTION NO.
Upgrade Project )

WHEREAS, Project 3334, the Broadcast System Upgrade Project (the "Project") is to upgrade the broadcasting system in the Council Chamber to meet the current and future expectations for the City's broadcasting needs; and

WHEREAS, the Council Chamber at City Hall has had a broadcasting system in place over the last 20 years and components are now beyond their useful life or are reaching technical obsolescence; and

WHEREAS, the new broadcasting system will take care of presentation, recording, and broadcasting of the events (City Council Meetings, Commission Meetings, Training Sessions, other meetings) from the Council Chamber; and

WHEREAS, on September 22, 2021, staff published a Request for Qualifications for the design of the Project; and

WHEREAS, on October 26, 2021, four Statement of Qualifications were received, and it was determined that Smith, Fause & McDonald Inc. is the most qualified consultant to complete the design of the Project at a cost of $26,660; and

WHEREAS, if approved, staff will execute the design contract with Smith, Fause & McDonald Inc; and

WHEREAS, on June 21, 2021, the City Council adopted Resolution 21-13942, approved the operating budget for Fiscal Year 2021-22, and allocated $255,000 PEG (Fund 227) funds to go towards the Project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg hereby approves the Project and authorizes allocation of $500,000 Public, Education and Government (PEG) (Fund 227) to Project 3334, Broadcast System Upgrade Project.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

**Contract 2021-24, Broadcast System Upgrade Project**

Project 3328

**Project Funding**

| | | |
|---|---|---|
| | Public Education & Government (Fund 227) | $255,000 |
| | Public Education & Government (Fund 227) (Fund Balance) | $245,000 |
| | **Funding Total** | **$500,000** |

**Project Expenditures:**

| | | | |
|---|---|---|---|
| Design: | Consultant Design Fee | | $26,660 |
| | Project Management | | $25,000 |
| (Code 2122) | Permit Fees | | $6,000 |
| | | Subtotal | $57,660 |
| Miscellaneous: | Advertising | | $1,000 |
| | Postage | | $340 |
| (Code 1399) | Reproduction | | $1,000 |
| | | Subtotal | $2,340 |
| Construction: | Construction Contract | | $400,000 |
| (Code 2281) | Contingency (10%) | | $40,000 |
| | | Subtotal | $440,000 |
| | **Estimated Expenditures Total** | | **$500,000** |

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Chair and Governing Board Members

**FROM:** Garrett Evans, Executive Director

**SUBJECT:** Adoption of a PACF and City Council Resolution Approving a Sublease Agreement between the Pittsburg Arts and Community Foundation, Inc. and DVWB, LLC for 51 Marina Blvd, Suite C

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

Staff requests approval of a sublease agreement between the Pittsburg Arts and Community Foundation, Inc. ("Foundation") and DVWB, LLC, a California limited liability company ("Tenant"), for the vacant space at 51 Marina Boulevard Suite C. Under the proposed agreement, the premises would be subleased to the Tenant for a period of three years.

## FISCAL IMPACT

The proposed sublease agreement between the Foundation and the Tenant would result in sublease revenue of $1,662 per month ($19,944 per year) to the Foundation. The Tenant will also pay $120 per month for use of the 400 square feet of outdoor patio space. In addition, the proposed agreement requires the Tenant to be responsible for paying all janitorial and utility expenses related to its occupancy of the suite, and its pro-rated share of common area maintenance ("CAM") costs ($708 per month, or $8,496 per year).

Terms of the sublease include a rent escalation of three percent (3%) per annum over the immediate prior year and shall be applied in Year 3 (January 1, 2024). Also included is a rent credit of $14,256 to be used towards Base Rent during the first 8 months of the initial term of the sublease agreement.

## RECOMMENDATION

Board adopt the Resolution approving the Sublease Agreement and authorizing the Executive Director to take further actions as necessary to carry out the intent of the Sublease Agreement.

## BACKGROUND

The Foundation is a nonprofit, 501(c)(3) corporation formed for the purpose of lessening the burdens of government, and improving the quality of life in Pittsburg by fostering civic pride, combating blight, providing affordable housing, and promoting arts, literacy, and education.

On June 7, 2010, the City and the Agency entered into a ground lease for the Plaza Marina property at 51 Marina Boulevard.

On January 18, 2011, the City and the Foundation entered into a Master Lease Agreement for the Plaza Marina property under which the Foundation assumed responsibility for the property's management and maintenance, and for sub-leasing the property to various tenants.

On February 3, 2018, 51 Marina Boulevard Suite C was vacated by the previous tenant. Since this time, the space has been used as a temporary art gallery for the Foundation.

Owner/Operator, Tara Sanders, presented a proposal to operate the space as a restaurant serving beer and wine with live entertainment.

## SUBCOMMITTEE FINDINGS

At the Pittsburg Arts and Community Foundation Subcommittee meeting on September 28, 2021, staff reported that negotiations were underway for a sublease of 51 Marina Boulevard Suite C.

## STAFF ANALYSIS

The premises at 51 Marina Boulevard Suite C provide an ideal space and facility for the Tenant to operate a restaurant. Occupancy of the space will stimulate the economic development in the marina area and serve visitors and tenants at the City's waterfront and Old Town.

The proposed Tenant is Tara Sanders, owner of the DVWB, LLC and will operate a restaurant serving wine and beer with live entertainment.

Terms of the proposed sublease are summarized as follows:

Premises: The Foundation proposes to lease 51 Marina Boulevard Suite C to the Tenant. The Premises consists of approximately 1,662 square feet (sf) of ground floor interior space and 400 of exterior patio space for a total of 2,062 sf.

Security Deposit of $3,000 paid upon execution of sublease agreement.

Sublease term: Primary lease term is three years, with one option for renewal for an additional five-year term.

Sublease payments: The tenant will be responsible for lease payments to the Foundation of $1,782.00 per month for the beginning January 1, 2022. This payment increases on January 1, 2024 by 3% per annum over the amount paid in the immediate prior year. The Tenant is provided a $14,256 rent credit to assist in offsetting start-up costs that can be used during the first 8 months of the initial term.

Common Area Maintenance (CAM): Tenant is responsible for paying all janitorial and utility expenses related to its occupancy of the suite, and its pro-rata share of CAM costs, which are currently calculated to be $708 per month. The agreement allows for annual adjustments of this amount which occur annually in July.

Adoption of the proposed sublease agreement will enable the Foundation to recover CAM costs from the premises and generate revenue to help fund the cost of the Foundation's property management responsibilities.

The tenant has reviewed the draft sublease attached to this report and has agreed to the terms.

ATTACHMENTS: PACF Resolution
Draft Sublease Agreement and Exhibits
City of Pittsburg – PACF Master Lease for 51 Marina Blvd.

ATTACHMENTS:

Report Prepared By:

BEFORE THE GOVERNING BOARD OF THE PITTSBURG ARTS AND COMMUNITY FOUNDATION

In the Matter of:

| | | |
|---|---|---|
| Authorizing Execution of a Sublease Agreement between the Pittsburg Arts and Community Foundation and DVWB, LLC for Real Property Located at 51 Marina Blvd Ste C, in Pittsburg | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, the Pittsburg Arts and Community Foundation Inc. (the "Foundation") is a nonprofit, 501(c)(3) corporation formed for the purpose of providing assistance to the City of Pittsburg (the "City") and the Redevelopment Agency of the City of Pittsburg (the "Agency"), and all actions, budgets, projects, and programs that the Foundation engages in or approves must be reasonably related to, or in furtherance of the Foundation's charitable purposes as stated in the Articles of Incorporation, as amended on March 1, 2010; and

WHEREAS, on April 19, 2009, the Foundation adopted a Five-Year Organizational Plan, Operating Budget, and 5 Year Financial Plan, which included *Property Management & Maintenance* of various properties to revitalize Pittsburg's blighted properties; and

WHEREAS, the City Council (the "City Council") of the City of Pittsburg (the "City") adopted the Community Development Plan (as amended, from time to time, the "Redevelopment Plan") for the Los Medanos Community Development Project Area (the "Project Area") pursuant to California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.) (the "CRL"); and

WHEREAS, on January 18, 2011, the Foundation and the City entered into a Master Lease agreement for the 51 Marina Boulevard property under which the Foundation assumed responsibility for the property's management, maintenance, and subleasing; and

WHEREAS, in 2012, the Redevelopment Agency of the City of Pittsburg was dissolved under state Dissolution Law and certain rights and obligations vested in the Successor Agency to the former RDA, and

WHEREAS, DVWB, LLC (the "Sublessee") approached the Foundation regarding the operation of a restaurant at 51 Marina Boulevard, Suite C (the "Premises") consisting of approximately 1,662 square feet of interior and 400 square feet of exterior leasable commercial space; and

WHEREAS, the Sublessee has reviewed the proposed Sublease Agreement (the "Sublease") and agrees to all terms and conditions therein; and

WHEREAS, pursuant to the proposed Sublease, the Sublessee will pay $1,662.00 per month as an initial lease rate and pay a Common Area Maintenance (CAM) charge of $708.00 per month as an initial CAM rate; and

WHEREAS, the Foundation is allowing for a Rent Credit in the amount of $14,256 to be used during the first eight months of the initial term to assist with startup costs.

NOW, THEREFORE, BE IT RESOLVED that the Pittsburg Arts and Community Foundation, Inc., Board hereby authorizes the Executive Director to execute the Sublease Agreement with DVWB, LLC, and make minor amendments to the Sublease Agreement if necessary.

PASSED AND ADOPTED by the Pittsburg Arts and Community Foundation Board at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Chair

ATTEST:

_____
Alice E. Evenson, Board Secretary

**SUBLEASE AGREEMENT**
**DVWB, LLC**

THIS SUBLEASE (this "**Agreement**") dated as of December 20, 2021 (the "**Effective Date**") by and between the Pittsburg Arts and Community Foundation, Inc., a California 501(c)(3) non-profit corporation ("**Lessor**"), and DVWB, LLC, a California limited liability company (**"Sublessee"**). Lessor and Sublessee are collectively referred to in this Agreement as the "**Parties**."

**RECITALS**

A. The City of Pittsburg ("City") is the owner of fee title to the real property located at 51 Marina Boulevard, as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "**Property**").

B. The "Agency" is a Successor Agency to a Redevelopment Agency formed pursuant to the provisions of the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.*, the Property is located in the Los Medanos Community Development Project Area (the "**Project Area**"), and the Project Area is governed by the redevelopment plan (as subsequently amended, the "**Redevelopment Plan**").

C. Lessor and the Agency entered into that certain lease dated February 7, 2011 (the "**Master Lease**"), attached as Exhibit B hereto and incorporated in this Agreement by this reference, pursuant to which the Agency conveyed to Lessor a leasehold interest in the commercial space (collectively, the "**Plaza Marina Building**").

D. The City acquired the Property from the Agency on September 21, 2012, and its successor in interest to the Agency under the Master Lease.

E. Lessor desires to lease approximately One Thousand Six Hundred Sixty-Two (1,662) indoor square feet within the Plaza Marina Building and Four Hundred (400) square feet of outdoor dining terrace, known as 51 Marina Boulevard, Suite C, as more particularly described in Exhibit C, attached hereto and incorporated herein by this reference (the "**Premises**") to the Sublessee, and the Sublessee desires to lease the Premises from Lessor.

F. Sublessee intends to sublease the Premises for use as a restaurant serving wine and beer with live entertainment (the "**Business**").

G. The Pittsburg Arts and Community Foundation Board of Directors ("**Lessor Board**") authorized Lessor to sublease the Premises to Sublessee on the terms and conditions set forth herein on December 20, 2021.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## ARTICLE I
## DEFINITIONS; INCORPORATION OF RECITALS; MASTER LEASE AND PRIOR RIGHTS

1.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth in this Section. Additional definitions are set forth in the Recitals and the text of this Agreement.

(a) "Applicable Laws" is defined in Section 4.3.

(b) "Base Rent" is defined in Section 2.3.2.

(c) "Building and Common Area Costs" is defined in Section 2.4.1.(b)

(d) "Business" is defined in Recital F;

(e) "Claims" is defined in Section 3.2.

(f) "Commencement Date" is defined in Section 2.3.1

(g) "Common Areas" is defined in Section 5.3.1 (a)

(h) "Force Majeure" is defined in Section 14.1.

(i) "Hazardous Materials" is defined in Section 6.5.1.

(j) "Hazardous Materials Laws" is defined in Section 6.5.2.

(k) "Impositions" is defined in Section 3.1.

(l) "Improvements" is defined in Section 4.1.

(m) "Indemnitees" is defined in Section 3.2.

(n) "Operating Costs" is defined in Section 2.7

(o) "Premises" is defined in Recital E and described in Exhibit C.

(p) "Rent" is defined in Section 2.3.

(q) "Sublessee's Monthly Operating Costs Payment" is defined in Section 2.7.

(r) "Sublessee's Share of Operating Costs" is defined in Section 2.7.

(s) "Security Deposit" is defined in Section 2.4.

(t) "Term" is defined in Section 2.2.

1.2 Incorporation of Recitals. The Parties acknowledge the truth of the Recitals set forth above, and all such Recitals are hereby incorporated into this Agreement.

1.3 Master Lease; Prior Rights. This Agreement is subject and subordinate to the prior and continuing rights and obligations of Lessor as described in the Master Lease, a copy of which is attached hereto as Exhibit B. This Agreement is made subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens, and claims of title that may affect the Premises in effect as of the Effective Date.

## ARTICLE II
## SUBLEASE; TERM; RENT; SECURITY DEPOSIT

2.1 Agreement to Lease Premises. Subject to, and upon, the terms and conditions set forth in this Agreement, the Lessor hereby subleases the Premises to Sublessee and Sublessee hereby subleases the Premises from the Lessor. Sublessee acknowledges that the Lessor has made no representation or warranty regarding the condition of the Premises, or the suitability or fitness of the Premises for the conduct of the Business except as specifically stated in this Agreement.

2.2 Term of Agreement.

2.2.1 Initial Term. The term of this Agreement **("Term")** commences on the Commencement Date and shall continue, unless sooner terminated in accordance with the provisions of this Agreement, for three (3) years. In no event may this Agreement extend beyond the term of the Master Lease.

2.2.2 Sublease Extension Term. Provided that Sublessee is not in default under the terms of this Agreement, Sublessee has the option to extend this Agreement (the "**Option**") for one (1) five (5) year period ("**Sublease Extension Term**") commencing on the expiration of the Term. In the event that Sublessee elects to exercise its option to extend the Term by the Sublease Extension Term, Sublessee shall provide Lessor with irrevocable written notice of the Sublease Extension Term not earlier than one-hundred eighty (180) days and not later than one-hundred twenty (120) days prior to the then-existing expiration term of this Agreement. The Option is not transferable. The parties hereto acknowledge and agree that they intend that the Option is "personal" to Sublessee as set forth above and that in no event will any assignee or sublessee have any rights to exercise the Option to renew. The Sublease Extension Term is subject to the same terms and conditions of this Agreement, with the exception of Base Rent, which will adjust during the Sublease Extension Terms as set forth in Section 2.3.3 below.

2.2.3 Conditions precedent to exercising Sublease Extension Term. Lessor grants the Option to Sublessee in consideration of and the Option is contingent upon full and faithful performance by Sublessee of the terms and conditions of the Lease, including, but not exclusively, the prompt payment of Rent, as described in Article 2.3. Sublessee may only exercise the Option of Sublessee has not been in material default of any of the provisions of the Lease during the Term or Sublease Extension Term.

2.3 Rent.

2.3.1 Commencement of Rent. Sublessee shall commence paying Base Rent on the "**Commencement Date**" of January 1, 2022. Commencing on the first day of the month following the Commencement Date, Sublessee shall pay Base Rent as set forth in Section 2.3.2 of this Agreement.

2.3.2 Base Rent. Throughout the Term of this Agreement, Sublessee shall pay base rent **("Base Rent"),** without deduction, offset, prior notice or demand in the amount of One Thousand Six Hundred Sixty-Two Dollars ($1,662) per month beginning on the Commencement Date.

Beginning on the Commencement Date and continuing for the remainder of the Sublease, if Sublessee uses the 400 square feet of patio space, Sublessee's Base Rent shall also include, and be paid without deduction, offset, prior notice or demand, the amount of $120.00/month ($.30/SF). Beginning in Year 3, this amount shall increase by three percent (3%) per annum over the amount paid in the immediate prior year through the Initial Term.

2.3.3 Rent during Sublease Extension Term. If Sublessee elects to extend the Term in accordance with Section 2.2, Base Rent for the first year of the Sublease Extension Term will be determined based on the fair market value for similar leasable space in downtown Pittsburg, increasing by three percent (3%) per annum over the Base Rent paid in the immediate prior year through the Sublease Extension Term.

2.3.4 Additional Rent. As additional Rent, Sublessee shall pay and discharge when due, all Impositions described in Article III, Sublessee's Monthly Operating Costs Payments described in Section 2.7, all insurance premiums, all City fees and charges and all other liabilities and obligations Sublessee assumes or agrees to pay or undertake pursuant to this Agreement (the **"Additional Rent"** and together with Base Rent, **"Rent").**

2.3.5 Payment of Rent. Rent is due and payable on the first day of each month to the Lessor at the address shown in Section 14.4 (iv) or such other place as the Lessor may designate in writing.

2.3.6 Rent Credit. Lessor will provide Sublessee Rent Credit in an amount not to exceed Fourteen Thousand Two Hundred Fifty-Six Dollars ($14,256) to be used to offset Base Rent for months 1 through 8 beginning on the Commencement Date.

2.4 Security Deposit. Upon execution of this Agreement, Sublessee shall pay to the Lessor a security deposit in an amount equal to amount Three Thousand Dollars ($3,000.00) (the **"Security Deposit").** Provided that Sublessee is not in default under this Agreement, the Lessor shall return the Security Deposit to Sublessee upon termination of this Agreement. The Lessor has no obligation to pay or earn interest on the Security Deposit.

2.5 Use of Security Deposit. If Sublessee is in default with respect to any provision of this Agreement, the Lessor may, but has no obligation to, use the Security Deposit or any portion of the Security Deposit to cure such default or to compensate the Lessor for any damage or reasonable expense sustained by the Lessor and resulting from such default, but only after providing Sublessee with an opportunity to cure such default pursuant to the provisions of Section 13.2. The Lessor shall provide Sublessee with evidence of damages incurred as a result of a default by Sublessee. If this Agreement has not been terminated as a result of such default, Sublessee, on demand from the Lessor, shall promptly restore the Security Deposit to the full amount required under Section 2.4.

2.6 Late Fee. Sublessee hereby acknowledges that late payment by Sublessee to Lessor of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, personnel costs, and late charges which may be imposed on Lessor by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Rent due from the Sublessee is not received by lessor on the date such installment of Rent is due, Sublessee shall pay to Lessor a late charge equal to ten percent (10%) of such overdue Rent. Lessor and Sublessee hereby agree that such late charge represents a fair and reasonable estimate of the cost Lessor shall incur by reason of late payment by Sublessee. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Sublessee's default by with respect to such overdue amount, nor prevent Lessor from exercising any of the other rights and remedies granted hereunder.

If Sublessee is late in the payment of Rent two (2) times or more during any lease Year, then Lessor may, in addition to all other rights and remedies, require Rent for the remainder of the Term to be paid quarterly (three (3) months) in advance.

2.7 Common Area Maintenance Charges

2.7.1 Sublessee's Share of Operating Costs. In addition to all other sums due under this lease, Sublessee shall pay to lessor, in the manner and at the times set forth in this Section, Sublessee's Share of Operating Costs (as defined in Section 2.7.1.(c)) for each Lease Year or other fiscal year that may be established by Lessor during the Term.

(a) The phrase "Operating Costs" means the sum of Building and Common Area costs.

(b) The term "**Building and Common Area Costs**" means all costs and expenses of every kind and nature whatsoever as may be paid or incurred by Lessor, related entities, or third parties in operating, managing, insuring, repairing and maintaining the Buildings and/or the Common areas in the Plaza Marina Building, computed in accordance with generally accepted accounting principles consistently applied or such other method of

accounting as may be adopted by Lessor. Building and Common Area Costs include, but are not limited to costs and expenses incurred with respect to the items enumerated in Paragraph 2 of Exhibit E. Building and Common Area Costs do not include those items enumerated as "**Building and Common Areas Costs Exclusions**."

(c) "**Sublessee's Share of Operating Costs**" will be determined by multiplying total Operating Costs by the fraction calculated by dividing total square feet of the Premises by the total square feet of retail/commercial ground floor space of the Plaza Marina Building.

(d) Sublessee shall pay to Lessor, on the first day of each month during the Term, an amount equal to Sublessee's estimated Share of Operating Costs for the Lease Year in question, divided by the number of months (full or partial) in such Lease Year ("**Sublessee's Monthly Operating Costs Payment"**). Payment of Sublessee's Monthly Operating Costs will commence on the Commencement Date. The Initial Sublessee's Monthly Operating Costs payment is Seven Hundred Eight Dollars ($708.00) per month.

(e) Annual Adjustments. Within ninety (90) days following the end of each Fiscal Year ("**July 1 – June 30**"), or within a reasonable time thereafter, lessor shall prepare and deliver to Sublessee a statement setting forth the calculation of Sublessee's actual Share of Operating Costs for the previous Fiscal Year. Within thirty (30) days after receipt of the statement of Sublessee's actual Share of Operating Costs, Sublessee shall pay to Lessor, or Lessor shall credit against the next Monthly Operating Costs Payment due from Sublessee, as the case may be, the difference between Sublessee's actual Share of Operating Costs for the preceding Lease year and the amount of Sublessee's Monthly Operating Costs Payments paid by Sublessee during such Lease Year; except, Lessor shall pay Sublessee any excess at the time Lessor furnishes the statement to Sublessee in connection with the final adjustment of Operating Costs for the last Fiscal Year, provided Sublessee is not in default under any provisions of this Lease.

## ARTICLE III
## TAXES, ASSESSMENTS AND OTHER CHARGES

3.1 Impositions. Throughout the Term, Sublessee shall pay prior to delinquency, all real property taxes, possessory interest taxes, license and permit fees, sales, use or occupancy taxes, assessments whether general or special, ordinary or extraordinary, unforeseen, as well as foreseen, of any kind or nature whatsoever, pertaining to the Premises or part thereof, including but not limited to (i) any assessment, levy, imposition or charge in lieu of or in substitution for real estate taxes, and (ii) any assessment for public improvements or benefits which is assessed, levied, or imposed upon or which becomes due and payable and a lien upon (a) the Premises or any part thereof or any personal property, equipment or other facility used in the operation thereof, (b) the rent or income received by Sublessee from subtenants or licensees, (c) any use or occupancy of the Premises or part thereof, or

(d) this transaction or any document to which Sublessee is a party creating or transferring an estate or interest in the Premises or part thereof. All of the foregoing are hereinafter referred to as "**Impositions**."

3.1.1 Installments. If by law any Imposition is payable, or may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Sublessee may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same respectively become due and before any fine or penalty may be added thereto for the nonpayment of any such installment and interest. Any Impositions relating to tax years that are only partially included in the Term of this Agreement shall be prorated between Sublessee and the Lessor.

3.1.2 Evidence of Payment. Upon request by the Lessor, Sublessee shall furnish, in form satisfactory to the Lessor, evidence of payment prior to delinquency of all Impositions payable by Sublessee.

3.2 Sublessee Right to Contest. Sublessee has the right before any delinquency occurs to contest or object to the amount or validity of any Imposition by appropriate legal proceedings, but such right may not be deemed or construed in any way as relieving, modifying or extending the covenant to pay of Sublessee any such Imposition at the time and in the manner required by law. Any such contest shall be conducted in accordance with and subject to the requirements of all Applicable Laws (as defined in (Section 4.3) and otherwise in a manner that does not subject the Lessor's title to the Premises to foreclosure or forfeiture. Sublessee shall indemnify, defend, and hold the Lessor and its elected and appointed officers, officials, employees, agents and representatives (all of the foregoing, collectively the **"Indemnitees")** harmless from and against all liabilities, losses, damages, fines, deficiencies, penalties, claims, demands, suits, actions, causes of action, legal or administrative proceedings, judgments, costs and expenses (including without limitation reasonable attorneys' fees and court costs) (all of the foregoing, collectively **"Claims;')** arising as a result of or in connection with any such contest brought by Sublessee. During any contest of an Imposition, Sublessee shall (by payment of disputed sums, if necessary) prevent any advertisement of tax sale, foreclosure of, or any divesting of the Lessor's title, reversion -or other interest in the Premises. Upon final determination of the amount or validity of any Imposition contested pursuant to this Section 3.2, Sublessee shall immediately pay such Imposition and all costs and expenses relating to such challenge.

3.3 Sublessee Duty to File. Sublessee has the duty of making or filing any declaration, statement or report which may be necessary or advisable in connection with the determination, equalization, reduction or payment of any Imposition which is or which may become payable by Sublessee under the provisions of this Article III, and shall notify the Lessor in writing upon making such filing, declaration, statement or report, and the Lessor is not be responsible for the contents of any such declaration, statement or report; provided however, the Lessor shall cooperate with Sublessee in connection with the foregoing, including joinder in any application pertaining thereto to the extent required under Applicable Law, all at no cost to the Lessor.

## ARTICLE IV
## ALTERATIONS AND NEW CONSTRUCTION

4.1 Changes and Alterations. During the Term of this Agreement, Sublessee shall not make any change, alteration or addition to the Premises (collectively, the **"Improvements")** that would materially alter the function or exterior appearance of the Premises, without the prior written consent of the· Lessor. Except as otherwise set forth in this Agreement, all Improvements and Alterations may be made at the sole cost and expense of Sublessee and must comply with all of the following:

(a) The Improvements and Alterations may not materially impair the value or structural integrity of the Premises.

(b) The Improvements and Alterations must be necessary for the operation of the Business.

(c) No Improvements or Alterations may be undertaken until Sublessee has obtained all required permits and authorizations of any federal, state or local government or departments or subdivisions of any of them, having jurisdiction.

(d) The Improvements and Alterations must be made in a good and workmanlike manner and in accordance with all applicable permits and all Applicable Laws.

(e) During the construction of any Improvements in, to or of, the Premises, or the permitted demolition or new construction or any restoration, Sublessee shall comply with the insurance requirements set forth in Section 8.2, which policy or policies by endorsement thereto, if not then covered, will also insure any change, alteration or addition or new construction, including all materials and equipment incorporated in, on or about the Premises.

(f) Prior to commencement of any construction, change, alteration or repair, Sublessee shall deliver to the Lessor not later than ten (10) business days written notice of the proposed work, a general description of the proposed work and sufficient information to permit the Lessor to post a notice of no responsibility on the Premises.

4.2 No Right to Demolish. Notwithstanding any other provisions of this Article IV, Sublessee has no right to demolish the Improvements or Alterations, once built, unless Sublessee shall have received the prior written approval of the Lessor.

4.3 Compliance with Laws. Sublessee shall carry out the construction of the Improvements in conformity with all applicable state and federal laws and regulations, including without limitation, all applicable state and federal labor laws and standards, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, et *' seq.,* California Government Code Section 4450, et *seq., California* Government Code Section 11135, *et seq.,* and the Unruh Civil Rights Act, California Civil Code Section 51, *et seq.* Sublessee

shall comply with all City ordinances and regulations relating to the conduct of construction, including without limitation, all City ordinances and regulations relating to noise, construction hours, and maintenance of the construction site. All of the foregoing state, federal and local laws, regulations and ordinances are hereafter referred to as the **"Applicable Laws."**

4.4 Removal of Lessor Equipment. Sublessee acknowledges and agrees that the equipment identified in Exhibit D ("**Lessor Equipment**") is, and shall remain, the property of Lessor. Sublessee shall under no circumstances remove Lessor Equipment from the Premises except with the written consent of Lessor, and subject to the terms of such written consent. Lessor reserves the right to pursue any remedies allowed by law, whether civil or criminal, if Sublessee removes Lessor Equipment in violation of this Section 4.5.

4.5 Rights of Access. The Lessor has the right of access to the Premises during normal construction hours for purposes of assuring compliance with this Agreement, so long as the Lessor complies with all safety rules and does not unreasonably interfere with the progress of construction of the Improvements. The Lessor shall give Sublessee reasonable advance notice prior to exercising its rights pursuant to this Section 4.4 except in the event of emergency in which case notice shall not be required.

4.6 Indemnity. To the fullest extent allowed by law, Sublessee shall defend (with counsel reasonably acceptable to the Lessor) indemnify and hold harmless the Indemnitees from and against any and all present and future Claims arising during the term of this Agreement from or in connection with the failure to comply with all Applicable Laws relating to the operation or maintenance of the Premises or the Improvements by Sublessee, or the activities or performance of Sublessee under this Agreement, whether such activity or performance is by Sublessee or by anyone directly or indirectly employed by or contracted with by Sublessee and whether such Claim shall be discovered before or after Lease Termination. The indemnity obligations of Sublessee under this Section 4.5 do not extend to Claims to the extent they arise as a result of the Indemnitees' gross negligence or willful misconduct.

At its sole discretion, the Lessor may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve Sublessee of any obligation imposed by this Agreement. The Lessor shall notify Sublessee promptly of any claim, action or proceeding and cooperate fully in its defense.

Sublessee agrees to defend, indemnify and hold harmless the Indemnitees from any claim, action or proceeding against the Indemnitees, arising solely out of the acts or omissions of the Sublessee in the performance of this Agreement. At its sole discretion, the Lessor may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve the Lessor of any obligation imposed by this Agreement. The Lessor shall notify Sublessee promptly of any claim, action or proceeding and cooperate fully in the defense.

4.7 Mechanic's Liens. Subject to the right to contest the same prior to payment, Sublessee agrees to keep the Premises free and clear of all mechanics' liens and other

liens on account of work done by or for a Party. Sublessee shall indemnify, defend (with counsel reasonably acceptable to the Lessor) and hold the Indemnitees harmless from and against all liability, loss, damages, costs and expenses (including reasonable attorney's fees) incurred by or brought against the Lessor for claims of lien of laborers or material men or others for work performed or materials or supplies furnished to the Lessor or persons claiming under it. In the event any lien is recorded, Sublessee shall, within twenty (20) days following such recordation, cause such lien to be removed of record by bonding or otherwise.

## ARTICLE V
## MANAGEMENT, USE AND OPERATION OF THE PROPERTY

5.1 Permitted Uses. Sublessee may use the Premises for the operation of a restaurant serving wine and beer with live entertainment and, with proper permits and licenses and for no other purposes without the prior written consent of the Lessor. Sublessee shall not use or permit the Premises to be used in whole or in part during the Term for any purpose other than as permitted pursuant to this Agreement or by the written consent of the Lessor.

5.2 Nondiscrimination. Sublessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926,12946.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the, use, occupancy, tenure or enjoyment of the premises herein leased nor shall Sublessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection of employees or vendees in the Premises herein leased.

5.3 Maintenance, Repair and Inspection of the Premises

5.3.1 Common Areas.

(a) The term **"Common Areas"** means all areas and facilities outside of the boundaries of the Premises and within the exterior boundaries of the Plaza Marina Building that are provided and designated by Lessor, in its sole discretion, from time to time, for the general use and convenience of Sublessee and its Authorized Representatives and invitees, and of other Sublessees and occupants of the Plaza Marina Building and their respective Authorized Representatives and invitees. Common Areas include, without limitation, pedestrian walkways, patios, landscaped areas, sidewalks, service corridors, restrooms, stairways, elevators, lobbies, decorative walls, plazas, fountains, waterscapes, malls, throughways, loading areas, refuse collection areas, ramps and parking areas to the extent such areas and facilities are located at the Plaza Marina Building.

(b) Lessor grants to Sublessee and its Authorized Representatives and invitees the nonexclusive right to use the Common Areas with others who are entitled to use the Common Areas, subject to Lessor's rights set forth in Section 5.3.1(c).

(c) Subject to the last paragraph of this Section 5.3.1 (c), Lessor may reduce, or change in any manner the Common Areas as Lessor, in its sole discretion, shall decide. Lessor shall also have, without limitation, the right to:

(i) Establish and enforce reasonable rules and regulations applicable to Sublessee concerning the maintenance, management, use and operation of the Common Areas;

(ii) Close, if necessary, parts of the Common Areas to whatever extent may be legally sufficient in the opinion of Lessor's counsel to prevent dedication of any of the Common Areas or the accrual of any rights of any person or of the public to the Common Areas;

(iii) Close temporarily parts of the Common Areas for maintenance, repair and renovation purposes; and

(iv) Select an outside entity (which may be a related entity) to maintain and operate the Common Areas, if at any time Lessor determines that the best interests of the Plaza Marina Building will be served by having the Common Areas maintained and operated by any such outside entity.

Notwithstanding the provisions of this Section 5.5.1(c), in exercising its rights hereunder, Lessor shall provide reasonable visibility of and access to and from the Premises.

(d) Parking. Sublessee has the nonexclusive use, in common with the Lessor, of the non-reserved public automobile parking areas and driveways. Sublessee agrees to cause its employees to park their automobiles in accordance with Lessor's parking rules and regulations as established from time to time. Sublessee hereby acknowledges that certain public events held in the Pittsburg downtown area may affect parking availability and vehicular access to the premises from time to time.

5.4 Repair, Maintenance and Inspection of the Premises.

5.4.1 Lessor's Repair Obligations. Lessor shall, subject to the casualty provisions of Article IX, maintain: (a) the Common Areas; (b) roofs (excluding interior ceilings), foundations, and exterior walls at the Plaza Marina Building (excluding all doors, plate glass, storefronts, display and other windows); and (c) plumbing, pipes and conduits located in the Common Areas; and (d) heating and air conditioning units servicing the Common Areas. On demand, Sublessee shall reimburse Lessor for all costs and expenses incurred by Lessor which are required to make any repair to the Premises and/or other parts of the Plaza Marina Building in connection with or resulting from (i) any alteration or modification to the Premises or to the Plaza Marina Building equipment performed by, for or because of Sublessee or to special equipment or systems installed by, for or because of Sublessee, (ii) the installation, use or operation of Sublessee's property, fixtures and

equipment, (iii) the moving of Sublessee's property into or out of the Plaza Marina Building or in and about the Premises, (iv) Sublessee's use or occupancy of the Premises in violation of Article V or in a manner not contemplated by the parties at the time of execution of this Lease (e.g., subsequent installment of special use rooms), or (v) the acts or omissions of Sublessee or Sublessee's Authorized Representatives, invitees, sublessees, and/or licensees, all of which shall be solely Sublessee's obligation.

5.4.2 Sublessee's Repair Obligations. Subject to the casualty provisions of Article IX and Lessor's obligations pursuant to Section 5.4.1, Sublessee, at Sublessee's expense, shall maintain the Premises in good order, condition and repair, including, without limitation, the following: interior surfaces of walls and ceilings; floors; wall and floor coverings; interior and exterior windows and plate glass; window coverings; doors; locks on closing devices; window casements and frames; plumbing and electrical systems within and servicing the Premises (including replacement of light bulbs and tubes); exterior entrances; heating and air conditioning, and all switches, fixtures and equipment located within the Premises. Upon receipt of reasonable notice from Sublessee, Lessor shall perform, at the expense of Sublessee all repairs and maintenance to plumbing, pipes and electrical wiring located within walls, above ceiling surfaces and below floor surfaces resulting from the use of the Premises by Sublessee. Lessor shall be responsible for any plumbing, pipes, electrical wiring, switches, fixtures or equipment located in the Premises but serving another sublessee, or any portions of the central heating, ventilation and air conditioning, electrical, mechanical and plumbing systems of the Plaza Marina Building which are located in the Premises. Sublessee shall, at Sublessee's expense, immediately replace all broken or damaged glass with like-kind glass. Sublessee shall keep all areas immediately adjoining the Premises free from trash, litter and obstructions resulting from Sublessee's business at the Premises.

Sublessee recognizes that the use of chemicals and/or maintenance techniques are potentially harmful to the Premises or the Plaza Marina Building, and consequently Sublessee's use of such chemicals or maintenance techniques shall be subject to Lessor's prior written approval.

The failure of Sublessee to maintain the Premises in accordance with this Agreement shall, in the Lessor's discretion, be grounds for termination of this Agreement pursuant to Article XIII.

5.4.3 Sublessee's Maintenance Obligations. Sublessee shall pay all costs and expenses including, if applicable, without limitation, all amounts attributable to, paid or incurred in connection with the ownership, operation, repair, restoration, maintenance and management of the Premises; real property taxes; rent taxes; gross receipt taxes (whether assessed against the Lessor or assessed against Sublessee and collected by the Lessor, or both); water and sewer charges; insurance premiums; utilities; refuse disposal; lighting (including outside lighting); security; and janitorial services.

(a) Grease Trap Costs. Sublessee is responsible for providing a grease trap, or comparable equipment, for the Premises if required by Applicable Laws. Sublessee

is responsible for maintaining the grease trap or equipment in good working condition in accordance with standard maintenance procedure and shall service the grease trap(s) or equipment consistent with applicable laws. A record of grease trap cleaning or copies of grease interceptor servicing must be maintained and made available for inspection by the Lessor's representative.

(b) Garbage. Sublessee, at its sole costs, shall store in sealed steel containers or other approved containers and cause to be removed daily all wet or moist garbage, refuse and trash. Sublessee shall remove garbage from their space in such a manner that it does not leave residue on the Common Areas.

(c) Odors. Sublessee shall not permit foul or offensive odor to emanate from any garbage and trash containers within the Premises and shall immediately take steps to abate any such odor. Nothing shall be prepared, manufactured or mixed in the Premises which emits any odors into the Plaza Marina Building.

(d) Warranties. Sublessee shall provide Lessor with copies of all warranty information for all fixtures and equipment installed on the Premises. In addition, Sublessee shall provide proof of maintenance of all such fixtures and equipment in accordance with warranty requirements on an annual basis at the end of each Lease Year. Failure to maintain the fixtures and equipment in accordance with warranty requirements will become an Event of Default under Article XIII of this Agreement.

5.4.4 Inspection. At any time during the Term, upon reasonable advance notice and during normal business hours, the Lessor may conduct interior and/or exterior inspections of the Premises to confirm that it is being properly maintained as required herein. Following its inspection, the Lessor may deliver to Sublessee written notification of any portions of the Premises which the Lessor has determined are not being properly maintained, and Sublessee shall promptly prepare and deliver to the Lessor the proposed plan for remedying the indicated deficiencies of Sublessee. The failure of Sublessee to deliver a remedial plan and to complete remedial work within a reasonable time as determined by the Lessor in its reasonable discretion shall be a default under this Agreement pursuant to Article XIII.

The failure of the Lessor to inspect or to notify Sublessee· of any deficiency shall not be a waiver of default or of the Lessor's right to enforce the maintenance and. repair obligations of Sublessee. Sublessee shall defend (with counsel reasonably acceptable to the Lessor), indemnify and hold the Indemnitees harmless from and against any and all Claims arising out of the failure of Sublessee to fully and timely fulfill its obligations to maintain and repair the Premises as required hereunder.

5.5 Lessor's Right to Perform Sublessee Obligations. If following notice and the expiration of any applicable cure period as set forth in Section 13.2.1, Sublessee fails to perform its obligations to maintain the Premises in accordance with the standards set forth in this Agreement, the Lessor shall have the right, but not the obligation, to perform such work upon delivery of written notice to Sublessee, and Sublessee shall reimburse the

Lessor for all expenditures the Lessor incurs in connection with such work together with interest thereon at the Default Rate specified in Article XIII. The Lessor's election to undertake such obligation shall not operate as a waiver of any other right or remedy the Lessor may have pursuant to this Agreement.

5.6 Lessor Not Obligated to Perform Repairs. Notwithstanding any contrary provision herein, the Lessor shall not be obligated to make any repairs, alterations, additions, improvements or betterments to the Premises during the term of this Agreement nor shall the Lessor be obligated to maintain or operate the Premises.

5.7 Compliance with Laws. Sublessee, at its sole cost and expense, shall comply with all Applicable Laws pertaining to the use, operation, and management of the Premises. Sublessee shall not itself use the Premises for any unlawful purpose or perform, permit or suffer any act of omission or commission upon or about the Building or the Premises which would result in a nuisance or a violation of law. Sublessee shall use its best efforts to not permit any permittees, licensees, guests or invitees to use the Premises for any unlawful purpose or perform, permit or suffer any act of omission or commission upon or about the building or the Premises which would result in a nuisance or a violation of law.

5.8 Sublessee Right to Contest. Sublessee shall have the right to contest by appropriate proceedings, in the name of Sublessee, and without cost or expense to the Lessor, the validity or application of any Applicable Law. If compliance with any Applicable Law may legally be delayed pending the prosecution of any such proceeding without the incurrence of any lien, charge or liability against the Premises or the interest of Sublessee therein, and without subjecting Sublessee or the Lessor to any liability, civil or criminal, for failure so to comply therewith, Sublessee may delay compliance therewith until the final determination of such proceeding. Sublessee shall indemnify, defend (with counsel approved by the Lessor), protect and hold the Indemnitees harmless from and against all Claims arising in connection with any such contest brought by Sublessee. The foregoing indemnity obligation shall survive the expiration or earlier termination of this Agreement.

5.9 Financial Reports. Sublessee will provide an annual audited financial statement for the previous fiscal year on the anniversary of the Commencement Date.

5.10 Maintenance of Licenses and Permits: Legal Compliance. Sublessee will, and will cause Business, to preserve and maintain the existence of their respective licenses, rights, franchises and privileges in the jurisdiction of their formation and all authorizations, consents, approvals, orders, licenses, permits, or exemptions from or registrations with, any governmental agency that are necessary for the transaction of business. Sublessee agrees to comply with all federal, state and local rules, statutes, ordinances and laws which apply to the conduct of its business activities and the construction, improvement and maintenance of its property. Sublessee further agrees to notify Lessor in writing within ten (10) days of its receipt of service or notice in any administrative or judicial proceeding in which Sublessee is named as a party that is related to the occupation· or use of the Premises, or that is related to the licensing of Sublessee or any guarantor, including any petitions, complaints or administrative proceedings to amend, modify, counsel, revoke, diminish or otherwise affect any licenses or authorities currently granted to, or in the possession of, Sublessee including, but not limited to, business licenses. All repairs and Improvements to

the Premises must be performed by licensed and bonded contractors.

5.11 Payment for City Services. Tenant shall reimburse City for any costs incurred by City to provide additional personnel or services (including, but not limited to, police services, and public works services) that are, in City's sole discretion, (i) directly related to Tenant's use of the Premises and (ii) beyond the number of City personnel or type of service normally provided by City. The charge for such reimbursement will be calculated based on the actual cost of materials, supplies and direct expenses, plus reimbursement for the cost of City personnel at an hourly rate as reflected in the City's Master Fee Schedule adopted by the City Council.

## ARTICLE VI
## CONDITION OF THE PREMISES; ENVIRONMENTAL MATTERS

6.1 Condition of the Premises.

6.1.1 AS-IS Condition. Sublessee will lease the Premises in its "AS IS" condition as such condition exists as of the Commencement Date.

6.1.2 No Representations. Sublessee acknowledges that except as expressly set forth herein, the Lessor makes no representations or warranties expressed or implied regarding the condition of the Premises or the fitness or suitability thereof for the purposes of Sublessee, including but not limited to, the condition of the soil, its geology, topography, the presence or absence of fill, the presence or absence of Hazardous Materials, drainage, flood zone designation, or compliance with Hazardous Materials Laws, and no patent or latent defect or deficiency in the condition of the Premises shall affect the rights of Sublessee or the Lessor hereunder. Sublessee shall rely solely on its own independent investigation and judgment as to all matters relating to the Land. Sublessee acknowledges and agrees that prior to the Effective Date it has made such investigations of the Premises, including without limitation such inquiries of governmental agencies, soils testing, tests and inspections as Sublessee deemed necessary to determine the condition of the Premises, and has approved all such characteristics and conditions and shall lease the Premises in its condition as of the Effective Date "AS-IS" "WHERE-IS" AND WITH ALL FAULTS. Sublessee further acknowledges that the Lessor has made available all data and information on the Premises available to the Lessor, but without warranty or representation by the Lessor as to the completeness, correctness or validity of such data and information, except as otherwise set forth in this Agreement.

6.2 Sublessee's Covenants. Throughout the term, Sublessee hereby covenants and agrees that:

(a) The Premises, and the use and operation thereof, shall be in compliance with all Hazardous Materials Laws, and Sublessee shall not cause or permit the Premises or any portion thereof to be in violation of any Hazardous Materials Laws.

(b) Sublessee shall not permit the Premises or any portion thereof to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials nor shall Sublessee permit the presence or release of Hazardous

Materials in, on, under, about or from the Premises with the exception of materials customarily used in construction, operation, use or maintenance of Business facilities, provided such materials are used, stored and disposed of in compliance with Hazardous Materials Laws.

(c) Upon receiving knowledge of the same, Sublessee shall immediately advise the Lessor in writing of: (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Sublessee, the Premises or the Building pursuant to any applicable Hazardous Materials Laws; (ii) any and all complaints, claims, citations, demands, inquiries, reports, or notices made or threatened by any third party against Sublessee, the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials; (ii-i) the presence or release of any Hazardous Materials in, on, under, about or from the Premises or the Building; or (iv) the discovery of any occurrence or condition, by Sublessee, on any real property adjoining or in the vicinity of the Building classified as "Border Zone Property" under the provisions of California Health and Safety Code, Sections 25220 *et seq.,* or any regulation adopted in connection there with, that may in any way affect the Premises pursuant to any Hazardous Materials Laws or cause it or any part thereof to be designated as Border Zone Property. The matters set forth in the foregoing clauses (i) through (iv) are hereinafter referred to as **"Hazardous Materials Claims."** The Lessor shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claim, and to have its reasonable attorney's fees in connection therewith paid by Sublessee.

(d) Without the Lessor's prior written consent, which shall not be unreasonably withheld, Sublessee shall not take any remedial action in response to the presence of any Hazardous Materials in, on, under, or about the Premises or the Building (other than in emergency situations or as required by governmental agencies having jurisdiction in which case the Lessor agrees to provide its consent), nor enter into any settlement agreement, consent decree, or other compromise with respect to any Hazardous Materials Claim.

(e) If the presence of any Hazardous Material on the Premises results in any contamination of the Building in violation of Hazardous Materials Laws, except to the extent such contamination is caused by the City or the Lessor, Sublessee shall promptly take all actions at its sole expense as are necessary to remediate the Premises as required by law; provided that Sublessee first obtains Lessor approval of such actions, which approval may be withheld in the Lessor's reasonable discretion. All costs and expenses of any Remedial Work shall be paid by Sublessee, it being understood that the Lessor shall incur no cost, expense or liability in connection with any Remedial Work. The Lessor shall have the right, but no obligation, to join arid participate in, as a party if it so elects at the Lessor's cost, any legal proceedings or actions initiated in connection with any Hazardous Material Claims. For purposes of this Agreement, **"Remedial Work"** means all investigation, testing, analysis, monitoring, restoration, abatement, detoxification, containment, handling, treatment, removal, storage, decontamination, clean-up, transport, disposal or other ameliorative work or response action required by (i) any Hazardous Materials Laws, (ii) any order or request of any federal, state or local governmental agency, or (iii) any judgment, consent decree, settlement or compromise with respect to any and all enforcement, clean-up, removal, remedial or other governmental or regulatory actions or agreements or orders

threatened, instituted, or completed pursuant to any Hazardous Materials Laws or any actions, proceedings or claims by such entities or third parties relating to or arising out of the breach of any Hazardous Materials Laws or the presence or release of any Hazardous Material in, on, under or from the Premises or the Building.

6.3 Release of Claims. Sublessee hereby waives releases and discharges forever the Indemnitees from all present and future Claims Sublessee may have arising directly or indirectly from the presence or alleged presence of Hazardous Materials on, under, in or about the Premises.

Sublessee is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE· DEBTOR.

As such relates to this Section 6.3, Sublessee hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

_____
Sublessee Initials

6.4 Environmental Indemnity. Sublessee shall indemnify, defend (with counsel reasonably acceptable to the Lessor) and hold the Indemnitees harmless from and against all Claims arising during the Term and resulting, arising, or based directly or indirectly in whole or in part, upon (i) the presence, release, use, generation, discharge, transport, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from the Premises during the Term, (ii) the failure of Sublessee, or the employees, agents, contractors, subcontractors, licensees, permittees, or any person acting on behalf of any of Sublessee to comply with Hazardous Materials Laws, or (iii) the breach by Sublessee of any of its covenants contained in this Article VI. The foregoing indemnity shall further apply to any residual contamination in, on, under or about the Premises or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws and shall include, without limitation, any Claims arising in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work ordered by a court or required by any federal, state, or local governmental agency or political subdivision. This Section 6.4 shall survive the expiration or earlier termination of this Agreement.

6.5 Definitions.

6.5.1 Hazardous Materials. As used herein, **"Hazardous Materials"** means any substance, material, or waste which is or becomes regulated by any local, state or federal authority, agency or governmental body, including any material or substance which is: (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter Presley-Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety .Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) friable asbestos; (vii) polychlorinated biphenyls; (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (ix) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317); (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et *seq.* (42 U.S.C. §6903); or (xi) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, et seq., as the foregoing statutes and regulations now exist or may hereafter be amended.

6.5.2 Hazardous Materials Laws. As used herein **"Hazardous Materials Laws"** means all federal, state and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials, including without limitation, the laws, statutes and regulations cited in the preceding Section 6.5.1, as any of the foregoing may be amended from time to time.

## Article VIII
## TENANT IMPROVEMENTS

7.1 Construction of Tenant Improvements.

7.1.1 Approval of Tenant Improvements. The Sublessee must receive written approval from the Lessor prior to the construction of any Tenant Improvements that affect the Premises or the exterior of the building. Prior to expending any funds for the acquisition, installation and/or construction of any Tenant Improvements, Sublessee hereby agrees to submit to Lessor the plans, specifications, bid(s), and cost estimates for the undertaking of the Tenant Improvements.

7.1.2. Permits. Sublessee shall comply with all applicable building and design review permits and any other required state, county, or City approvals **("Permits").**

7.2 Prevailing Wages. To the full extent required by all applicable state and federal laws, rules and regulations, if any, Sublessee and its contractors and agents shall comply with California Labor Code Section 1720 et seq. and the regulations adopted pursuant thereto **("Prevailing Wage Laws")** and are responsible for carrying out the requirements of such provisions. If applicable, Sublessee shall submit to Lessor a plan for monitoring payment of prevailing wages and shall implement such plan at the sole expense of Sublessee.

Sublessee shall indemnify, defend (with counsel approved by Lessor) and hold the Indemnitees harmless from and against all Claims which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781) or the requirement of competitive bidding in the construction of the Tenant Improvements, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Sublessee related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that Lessor does not and will not waive any rights against Sublessee that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by Lessor, or deposit by Sublessee to Lessor of any of the insurance policies described in this Agreement. The provisions of this Section 7.2 survive the expiration or earlier termination of this Agreement. The indemnification obligations of Sublessee as set forth in. this Section shall not apply to Claims arising from the gross negligence or willful misconduct of the Indemnitees.

## ARTICLE VIII
## INDEMNITY AND INSURANCE

8.1 Indemnity. To the fullest extent permitted by law, Sublessee shall indemnify, defend (with counsel reasonably acceptable to the Lessor) and hold the Indemnitees harmless from and against any and all Claims arising during the Term and arising from or in connection with any of the following: (i) the operation or management of the Business on the Premises, (ii) any work or thing done on or in the Premises by the Sublessee including its contractors and agents, (iii) any condition of any alteration or addition constructed by Sublessee on the Premises, (iv) any breach or default by Sublessee in the performance of any covenant or agreement to be performed by Sublessee pursuant to the terms of this Agreement, (v) any negligence of Sublessee, or any of its agents, contractors, subcontractors, employees, or licensees, (vi) an y accident, injury or damage caused to any person occurring during the Term in or on the Premises, and (vii) the furnishing of labor or materials by Sublessee or its contractors, subcontractors, employees, or agents. In the event any such action or proceeding is brought against the Lessor. By reason of any such Claim, Sublessee, upon notice from the Lessor, covenants to defend such action or proceeding by counsel reasonably satisfactory to the Lessor. If an insurer under insurance required to be maintained by Sublessee hereunder shall undertake to defend the Lessor under a reservation of rights with respect to ultimate coverage and the Lessor shall reasonably

deem it necessary to retain independent counsel with respect to such matter, Sublessee shall pay the reasonable fees of such counsel. The obligations of Sublessee under this Article VIII do not apply to any Claim or other matter to the extent such arises as a result of the gross negligence or willful misconduct of the Indemnitees. This Section shall survive the expiration or earlier termination of this Agreement.

8.2 Insurance Requirements. Sublessee shall procure, at its sole expense, and maintain in full force and effect during the Term, the following insurance naming the Lessor as additional insured and/or loss payee:

a. Comprehensive General Liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the operation of the Premises and the Business with a policy limit of at least Two Million Dollars ($2,000,000) per occurrence.

b. Sublessee shall maintain property insurance covering all risks of loss including floor (if required) for 100% replacement value of the Premises, the fixtures and any Improvements, naming the Lessor as loss payee as its interests may appear.

c. Workers' compensation insurance that complies with the statutory requirements of the State of California.

d. Automobile liability insurance for owned, hired and non-owned vehicles, with a combined single limit of at least One Million Dollars ($1,000,000).

e. Within five (5) days of the Effective Date, Sublessee shall furnish Lessor with certificates of insurance in form acceptable to Lessor evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. The certificates shall contain a statement of obligations on the part of the carrier to notify the Lessor of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination or non-renewal.

f. If any insurance policy or coverage required hereunder is canceled or reduced, Sublessee shall, within fifteen (15) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with Lessor a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, Lessor may, without further notice and at its option, procure insurance coverage at Sublessee’s expense, and Sublessee shall promptly reimburse Lessor for such expense upon receipt of billing from Lessor.

g. If Sublessee undertakes the construction of the Improvements pursuant to Article VII, Sublessee shall ensure that its general contractor carries liability, property damage, workers' compensation, and builder's risk insurance throughout construction of the Improvements, naming the Indemnitees as additional insured’s and otherwise in compliance with all requirements set forth in this Section 8.2.

## ARTICLE IX
## DAMAGE AND DESTRUCTION

9.1 Damage or Destruction. In the event of any damage to or destruction of the Premises during the Term, the Lessor shall elect by written notice delivered to Sublessee within sixty (60) days· following the date of the occurrence of the damage to either remove the Premises or restore and rebuild the Premises as nearly as possible to their condition immediately prior to such damage or destruction, subject to any restrictions imposed by changes in any Applicable Law. If the Lessor elects to restore the Premises, the Lessor shall commence diligently and continuously to carry out such rebuilding to full completion as soon as possible and shall commence reconstruction of the Premises within the earlier of ninety (90) days following the date of occurrence of the damage or the date upon which insurance proceeds are made available for such work. Upon the occurrence of damage or destruction, all insurance proceeds paid in respect of such damage or destruction shall be applied to the payment of the costs of the restoration and rebuilding required to be performed by the Lessor pursuant to this Agreement. If the Lessor does not elect to restore the Premises and the Lessor does not exercise its right to terminate this Agreement pursuant to Section 13.3 within one hundred twenty (120) days following the date of the occurrence of the damage, then at the Lessor's option this Agreement will terminate upon delivery of written notice to Sublessee. If the Lessor elects to restore the Premises, the Lessor shall confer with Sublessee regarding the design and plans for such restoration of the Premises.

9.2 Notice Required. In the event of material damage to or destruction of the Premises, or any part thereof, Sublessee shall promptly give the Lessor notice of such occurrence and take all actions reasonably required to protect against hazards caused by such damage or destruction. For purposes of this Article IX, damage or destruction shall be deemed to be material if the estimated cost to repair equals or exceeds Fifty Thousand Dollars ($50,000).

9.3 Lessor's Right to Terminate. Notwithstanding any contrary provision of this Article IX, the Lessor has the option to terminate this Agreement and be relieved of the obligation to restore the Premises where all or substantially all of the Premises are substantially damaged or destroyed and such damage or destruction resulted from a cause not insured against by Sublessee and/or the Lessor nor required to be insured against by Sublessee and/or the Lessor under this Agreement.

## ARTICLE X
## LANDLORD'S RIGHT TO PERFORM SUBLESSEE'S COVENANTS

If Sublessee fails at any time to pay any Imposition or other charge payable by Sublessee to a third party as required under this Agreement, or to comply with the requirements set forth in Section 8.2 pertaining to insurance, or to make any other payment or perform any other act on its part to be made or performed hereunder within the time permitted by this Agreement, then the Lessor, after thirty (30) days' written notice to Sublessee and without waiving or releasing Sublessee from any obligation of Sublessee hereunder, may (but is not required to): (i) pay such Imposition or other charge payable by Sublessee; (ii) pay for and maintain the insurance policies required pursuant to this

Agreement, or (iii) make such other payment or perform such other act on the part of Sublessee to be made or performed under this Agreement; and the Lessor may enter upon the Premises for such purpose and take all such action thereon as may be reasonably necessary therefore.

All sums paid by the Lessor and all costs and expenses incurred by the Lessor in connection with any such payment or the performance of any such act (together with interest thereon at the Default Rate from the respective dates of the Lessor's making of each such payment) shall constitute additional Rent payable by Sublessee under this Agreement and shall be paid by Sublessee to the Lessor on demand. The **"Default Rate"** shall mean interest calculated at an annual rate equal to the lesser of twelve percent (12%) or the maximum rate of interest permitted by law.

## ARTICLE XI
## MORTGAGES

11.1 Non-Subordination of Fee. The Lessor will not subordinate its leasehold interest in the Premises or its right to rent payments hereunder or any other right of the Lessor under this Agreement. Except as expressly set forth in this Agreement, Sublessee may not mortgage its interest in the Premises. Notwithstanding anything to the contrary, the Lessor has no obligation to encumber or otherwise subordinate its fee interest in the Premises to Sublessee.

11.2 Estoppel Certificates. Sublessee shall, within ten (10) days after receipt of a request from lessor or any lender of Lessor, execute, acknowledge and deliver to Lessor or such lender either a statement in writing or a three party agreement among Lessor, Sublessee and such lender (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified is in full force and effect) and the date to which Rent is paid in advance, if any, (b) acknowledging that there are not, to Sublessee's knowledge, any uncured defaults on the part of Lessor under this Lease, or specifying such defaults if any are claimed, and (c) specifying any further information and agreeing to such notice provisions and other matters reasonably requested by Lessor or such lender. Any such statement may be conclusively relied upon by a prospective purchaser or lender of the Premises. Sublessee's failure to deliver such statement within ten (10) days will constitute a default under this Lease. If Sublessee fails to deliver the statement within the ten (10) days, Sublessee irrevocably constitutes and appoints Lessor as its special attorney-in-fact to execute and deliver the statement to any third party.

## ARTICLE XII
## ASSIGNMENT, TRANSFER, SUBLETTING; NONDISTURBANCE AND ATTORNMENT

12.1 Restrictions on Transfer. Assignment and Encumbrance. Sublessee has no right to sell, transfer, sublet, assign, encumber, hypothecate or otherwise convey **("Transfer")** its leasehold interest hereunder or any portion of its interest in the Premises, the fixtures, any Improvements or this Agreement voluntarily, involuntarily, by operation of law, or otherwise without the prior written approval from Lessor, which consent shall not be unreasonably withheld.

12.2 No Involuntary Transfers. No interest of Sublessee in this Agreement, the Premises or part thereof is assignable or transferable: (i) pursuant to any voluntary or involuntary proceeding under federal or state bankruptcy or insolvency law; (ii) pursuant to any assignment of the assets of Sublessee for the benefit of its creditors; or (iii) pursuant to any order of attachment, garnishment, receivership, or similar action.

Any transfer described in this Section 12.2 constitutes an Event of Default under this Agreement by Sublessee, and Lessor has the right to terminate this Agreement pursuant to Article XIII as a result of any such transfer taking place, in which case this Agreement shall not be treated as an asset of Sublessee.

12.3 No Disturbance. Provided that Sublessee is not in default under this Agreement, the possession, use and enjoyment of the Premises by Sublessee will not be interfered with, disturbed or diminished, or otherwise affected in any manner as a result of any act or omission of Lessor, or any exercise of any remedies under this Agreement. Sublessee shall ensure that its possession, uses and enjoyment of the Premises does not interfere with, disturb or diminish or otherwise affect in any manner any other tenants in the Building.

## ARTICLE XIII
## DEFAULT, REMEDIES AND TERMINATION

13.1 Event of Default. Sublessee will be in default under this Agreement upon the occurrence of any of the following events of default (each, an **"Event of Default"):**

(a) Payment of Base Rent. Sublessee fails to pay Base Rent when due and Sublessee fails to cure such default within three (3) business days;

(b) Other Monetary Obligations. Sublessee at any time is in default hereunder as to any monetary obligation other than Base Rent (including without limitation, the obligation of Sublessee to pay Sublessee's Monthly Operating Costs Payment, and the obligation of Sublessee to pay taxes and assessments due on the Premises or part thereof, subject to the right of Sublessee to contest such charges pursuant to Section 3.2), and such default continues for thirty (30) days after the date upon which the Lessor shall have given Sublessee a Notice of Default (as defined in Section 13.2.1);

(c) Insurance. Sublessee fails to obtain and maintain any insurance required pursuant to Section 8.2 of this Agreement, and Sublessee fails to cure such default within ten (10) days following receipt of Notice of Default;

(d) Abandonment. Sublessee abandons the Premises and ceases to use it for the purposes authorized hereby for a period of ninety (90) days or more or as established pursuant to Section 1951.3 of the California Civil Code except when prevented by Force Majeure;

(e) Transfer. A voluntary or involuntary Transfer of all or any portion of the Sublessee hold interest of Sublessee in this Agreement occurs in violation of the

provisions of Article XII;

(f) Non-Monetary Obligations. Sublessee defaults in the performance of any term, provision, covenant or agreement contained in this Agreement other than an obligation enumerated in this Section 13.1, and unless a shorter cure period is specified for such default, the default continues for thirty (30) days after the date upon which the Lessor has given written notice of the default to Sublessee; provided however, if the default is of a nature that it cannot be cured within thirty (30) days, an Event of Default shall not arise hereunder if Sublessee commences to cure the default within thirty (30) days and thereafter prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than one hundred and eighty (180) days after receipt of a Notice of Default;

(g) Bankruptcy. Sublessee files a voluntary petition in bankruptcy or files any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator of Sublessee or of all or any substantial part of its property, or of any or all of the royalties, revenues, rents, issues or profits thereof, or makes any general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due;

(h) Reorganization. A court of competent jurisdiction enters an order, judgment or decree approving a petition filed against Sublessee seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree remains unvacated and unstayed for an aggregate of sixty (60) days from the first date of entry thereof, or any trustee receiver or liquidator of Sublessee or of all or any substantial part of its property, or of any or all of the royalties, revenues, rents, issues or profits thereof is appointed without the consent or acquiescence of Sublessee and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, such sixty (60) day period to be extended in all cases during any period of a bona fide appeal diligently pursued by Sublessee;

(i) Attachment. A writ of execution or attachment or any similar process is issued or levied against all or any part of the interest of. Sublessee in the Premises and such execution, attachment or similar process is not released, bonded, satisfied, or vacated or stayed within sixty (60) days after its entry or levy, such sixty (60) day period to be extended during any period of a bona fide appeal diligently pursued by Sublessee;

j) Liens. The failure of Sublessee to satisfy the requirements of Section 4.6 within the time periods specified therein;

k) Removal of Lessor Equipment. Sublessee removes Lessor Equipment in violation of Section 4.5 of this Agreement.

13.2 Notice and Opportunity to Cure.

13.2.1 Notice of Default. Upon the occurrence of a default hereunder, the non-defaulting party shall deliver a notice to the nonperforming party (the **"Notice of Default"),** stating the nature of the obligation which such nonperforming party has failed to perform, and stating the applicable period of time, if any, permitted to cure the default.

13.2.2 Failure to Give Notice; No Waiver. Failure to give, or delay in giving, the Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. No failure or delay by either party in asserting any rights and remedies as to any breach shall operate as a waiver of any breach or of any such rights or remedies. Delay by either party in asserting any of its rights and remedies shall not deprive such party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.

13.3 Remedies Upon Default.

13.3.1 Lessor's Remedies. Upon the occurrence of any Event of Default and in addition to any and all other rights or remedies of the Lessor hereunder and/or provided by law, the Lessor has the right to terminate this Agreement and the possessory rights of Sublessee hereunder, in accordance with applicable law to re-enter the Premises and take possession of the Premises and of the fixtures and any Improvements, and except as otherwise provided herein, to remove all persons and property there from, and to store such property at the risk of Sublessee and for the account of Sublessee, and Sublessee shall have no further claim thereon or hereunder. The Lessor's re-entry or taking of possession of the Premises may not be construed as an election on the Lessor's part to terminate this Agreement unless the Lessor has given written notice of such intention to Sublessee. In no event shall this Agreement be treated as an asset of Sublessee after any final adjudication in bankruptcy except at the Lessor's option so to treat the same but no trustee, receiver, or liquidator of Sublessee shall have any right to disaffirm this Agreement.

13.3.2 Remedies Upon Abandonment. If Sublessee should default under this Agreement and abandon the Premises, the Lessor may, at its option, enforce all of its rights and remedies under this Agreement, including the right to recover the rent as it becomes due hereunder. Additionally, the Lessor is entitled to recover from Sublessee all costs of maintenance and preservation of the Premises, and all costs, including attorneys' and receiver's fees incurred in connection with the appointment of and performance by a receiver to protect the Premises and the Lessor's interest under this Agreement.

13.3.3 Lessor Right to Continue Lease. In the event of any default, if Sublessee fails after receipt of a Notice of Default to cure the default within the time period set forth in this Agreement, under this Agreement by Sublessee (and regardless of whether or not Sublessee has abandoned the Premises), this Agreement does not terminate (except by an exercise of the Lessor's right to terminate under Section 13.3.1) unless the Lessor makes such election by the giving of any notice (including, without limitation, any notice preliminary or prerequisite to the bringing of legal proceedings in unlawful detainer) to terminate the right to possession held by Sublessee. For so long as this Agreement continues in effect, the Lessor may enforce all of the Lessor's rights and remedies under

this Agreement, including, without limitation, the right to recover all rent and other monetary payments as they become due hereunder. For the purposes of this Agreement, the following shall not constitute termination of the right to possession held by Sublessee: (a) acts of maintenance or preservation or efforts to relit the Premises; or (b) the appointment of a receiver upon initiative of the Lessor to protect the Lessor interest under this Agreement.

13.3.4 Right to Injunction; Specific Performance. In the event of a default by Sublessee under this Agreement, the Lessor shall have the right to commence an action against Sublessee for damages, injunction and/or specific performance. The failure, for any reason, of Sublessee to comply with a court-ordered injunction or order for specific performance shall constitute a breach under this Agreement.

13.3.5 Right to Receiver. Following the occurrence of an Event of Default, if Sublessee fails after receipt of a Notice of Default to cure the default within the time period set forth in this Agreement, the Lessor, at its option, may have a receiver appointed to take possession of the interest of Sublessee in the Premises with power in the receiver (a) to administer the interest in the Premises held by Sublessee, (b) to collect all funds available in connection with the operation of the Premises, and (c) to perform all other acts consistent with the obligations of Sublessee under this Agreement, as the court deems proper.

13.4 Remedies Cumulative. No remedy specified in this Article XIII shall be considered exclusive of any other remedy, but the same shall be cumulative and shall be in addition to every other remedy provided hereunder or now or hereafter existing at law or in equity or by statute, and every power and remedy provided by this Agreement may be exercised from time to time and as often as occasion may arise or as may be deemed expedient, subject to any limitations set forth herein.

1.3.5 No Election of Remedies. The rights given in this Article XIII to receive collect or sue for any rent or rents, moneys or payments, or to. enforce the terms, provision's and conditions of this Agreement, or to prevent the breach or nonobservance thereof, or the exercise of any such right or of any other right or remedy hereunder or otherwise granted or arising, shall not in any way affect or impair or toll the right or power of the Lessor upon the conditions and subject to the provisions in this Agreement to terminate the right of possession held by Sublessee because of any default in or breach of any of the covenants, provisions or conditions of this Agreement beyond the applicable cure period.

13.6 Survival of Obligations. Nothing herein shall be deemed to affect the right of the Lessor under Article VIII of this Agreement to indemnification for liability arising prior to the termination of this Agreement for personal injuries or property damage, nor shall anything herein be deemed to affect the right of the Lessor to equitable relief where such relief is appropriate. No expiration or termination of the Term by operation of law, or otherwise, and no repossession of the Improvements or any part thereof shall relieve Sublessee of its previously accrued liabilities and obligations hereunder, all of which shall survive such expiration, termination or repossession.

## ARTICLE XIV
## GENERAL PROVISIONS

14.1 Force Majeure; Extension of Times of Performance. Subject to the limitations set forth below, performance by either Party shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions or priority, litigation, including court delays, unusually severe weather, acts or omissions of the other Party, acts or failures to act of any public or governmental agency or entity (other than the Parties which shall not excuse delay in performance), or any other cause beyond the affected Party's reasonable control (all of the foregoing **"Force Majeure").** An extension of time for any such cause shall be for the period of the enforced delay and ·shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause and such extension is not rejected in writing by the other Party within ten (10) days of receipt of the notice. Neither Party shall unreasonably withhold consent to an extension of time pursuant to this Section.

Times of performance under this Agreement may also be extended in writing by the mutual agreement of Sublessee and the Lessor (acting in the discretion of its Executive Director unless he or she determines in his or her discretion to refer such matter to the governing board of the Lessor). Each Party expressly assumes the risk of such adverse economic or market · changes and/or financial inability, whether or not foreseeable as of the Effective Date.

14.2 Lessor's Right to Enter the Premises. The Lessor and its agents may enter the Premises from time to time with reasonable notice, except in the case of emergency in which case no notice shall be required, to inspect the same, to post notices of no responsibility and similar notices, and to discharge the obligations of Sublessee as stated hereunder when Sublessee has failed to do so within a reasonable time after written notice from the Lessor.

14.3 Representations of Lessor and Sublessee.

14.3.1 Sublessee hereby represents and warrants that all of the following are true and correct as of the Effective Date:

(a) Sublessee has taken all requisite action in connection with the execution of this Agreement and the undertaking of the obligations set forth herein. This Agreement constitutes the legally valid and binding obligation of Sublessee, enforceable against Sublessee in accordance with its terms, except as it may be affected by bankruptcy, insolvency or similar laws or by legal or equitable principles relating to or limiting the rights of contracting parties generally; and

(b) The execution of this Agreement and the acceptance of the obligations set forth herein do not violate any court order or ruling binding upon Sublessee or any provision of any indenture, agreement or other instrument to which Sublessee is a party or may be bound. Neither the entry into nor the performance of this Agreement will violate, be in conflict with or constitute a default under any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, judgment, order or other agreement, charge, right or interest applicable to Sublessee.

14.3.2 Lessor hereby represents and warrants that all of the following are true and correct as of the Effective Date:

(a) The Lessor has taken all requisite action in connection with the execution of this Agreement and the undertaking of the obligations set forth herein. This Agreement constitutes the legally valid and binding obligation of the Lessor, enforceable against the Lessor in accordance with its terms, except as it may be affected by bankruptcy, insolvency or similar laws or by legal or equitable principles relating to or limiting the rights of contracting parties generally; and

(b) The execution of this Agreement and the acceptance of the obligations set forth herein do not violate any court order or ruling binding upon the Lessor or any provision of any indenture, agreement or other instrument to which the Lessor is a party or may be bound. Neither the entry into nor the performance of this Agreement will violate, be in conflict with or constitute a default under any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, judgment, order or other agreement, charge, right or interest applicable to the Lessor.

14.4 Miscellaneous.

14.4.1 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

14.4.2 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery;

(ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;

(iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account; in which case notice is effective on delivery if delivery is

confirmed by the delivery service; or

(iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a no business day.

**Lessor:** Pittsburg Arts and Community Foundation, Inc.
65 Civic Drive
Pittsburg, CA 94565
Attention: Executive Director
Telephone: (925) 252-4877
Facsimile: (925) 252-4851

**Sublessee:** DVWB, LLC
2120 Railroad Avenue, Suite 103-307
Pittsburg, CA 94565
Attention: Tara Sanders
Telephone: (____) _____

14.4.3 Captions; Construction. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Lease. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree that since both Parties have participated in the negotiation and drafting of this Agreement with the· advice of counsel, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

14.4.4 Successors and Assigns. Subject to the restrictions on transfer set forth in Article XII, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. Any reference in this Lease to a specifically named Party shall be deemed to apply to any permitted successor and assign of such Party who has acquired an interest in compliance with this Agreement as if in every case so expressed.

14.4.5 Short Form of Lease. A memorandum of lease will be executed by the Parties and recorded in the Official Records of Contra Costa County upon the request of either Party.

14.4.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed in the Superior Court of Contra Costa County, California or in the Federal District Court for the Northern District of California.

14.4.7 Attorney's Fees. If either Party commences an action against the other to enforce any obligation contained herein, or to interpret any provision hereof, the prevailing party shall be entitled to recover from the other Party reasonable counsel fees, costs and necessary disbursements, as determined by the court having jurisdiction over the action.

14.4.8 Indemnity Includes Defense Costs. In any case where either Party is obligated under an express provision of this Lease, to indemnify and to save the other Party harmless from any damage or liability, the same shall be deemed to include defense of the Indemnitees by the indemnitor, such defense to be through legal counsel reasonably acceptable to the Indemnitees.

14.4.9 No Third-Party Beneficiaries; Disclaimer of Partnership. Lender/Sublessee Relationship. Nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties any rights or remedies hereunder. The relationship of the parties under this Agreement is solely that of landlord and tenant, and it is expressly understood and agreed that the Lessor does not as a result of this Agreement in any way nor for any purpose become a partner of Sublessee or a joint venturer with Sublessee in the conduct of business or otherwise by Sublessee. This Agreement is not intended to, and shall not be construed to create the relationship of principal and agent, partnership, joint venture, or association as between the Lessor and Sublessee. It is further expressly understood and agreed that this Agreement is not intended to, and shall not be construed to create the relationship of lender and borrower, and the Lessor does not, solely as a result of this Agreement, become a lender to Sublessee.

14.4.10 Entire Agreement. This Agreement, together with Exhibits A through E, which by this reference are hereby incorporated herein, contains the entire agreement between the Parties relative to the transactions covered hereby. All previous correspondence, communications, discussions, agreements, understandings or proposals and acceptances thereof between the Parties or their representatives, whether oral or written, are deemed to have been integrated into and superseded by this Agreement and are of no further force and effect except as expressly provided in this Agreement.

14.4.11 Waiver; Modification. No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any subsequent breach of the same or any other covenant or provision hereof. No waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the waiving party. This Agreement may be amended or modified only by a written instrument executed by the Parties.

The Executive Director, in his/her sole discretion, may make minor amendments to this Lease Agreement. A minor amendment shall be any modification that does not make a substantive change, modification or deviation in the terms of this Agreement or any Exhibits or Schedules attached hereto (“Minor Amendment”). Minor Amendments shall include, but are not limited to, the times for performance, square footage available for lease; changes in maintenance responsibilities, and improvements to the Premises. Sublessee

shall be provided with timely notice regarding any such Minor Amendments.

Minor Amendments may be approved by the prior written consent of the Executive Director. The Executive Director's determination as to the status of any Minor Amendment is final. The Executive Director also may, at his/her discretion, determine that a Minor Amendment shall be reviewed and acted upon by the Board of Directors and not by the Executive Director. No provision of this Sublease may be amended except by a mutual agreement in writing signed by the parties hereto or their respective successors in interest.

14.4.12 Time is of the Essence. Time is of the essence of this Agreement and of each provision hereof.

14.4.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

14.4.14 Action by the Parties. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the Lessor in its capacity as landlord hereunder is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the Lessor's Executive Director or by any person who shall have been designated by the Executive Director, without further approval by the Lessor Board of Directors unless the Executive Director determines in his or her discretion that such matter requires consideration by the Lessor Board.

14.4.15 Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of the Lessor or the City shall be personally liable to Sublessee or its successors in interest in the event of any default or breach by the Lessor or for any amount which may become due to Sublessee or the permitted successors in interest of Sublessee pursuant to this Agreement.

***[Signatures on Following Page]***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives in the City of Pittsburg, State of California, as of the date first written above.

**PITTSBURG ARTS AND COMMUNITY FOUNDATION,**
**a California 501(c)(3) Nonprofit Corporation**

By:_____
Executive Director

ATTEST:

By:_____
Board Secretary

REVIEWED AS TO FORM

_____
Board Counsel

**Tara Sanders**
**DVWB, LLC**

By:_____

Title:_____

2391085.1

## LIST OF EXHIBITS

A: Property
B: Master Lease Agreement
C: Premises
D: Lessor Equipment
E: Building And Common Area Costs Categories

# EXHIBIT A

## Legal Description of the Property

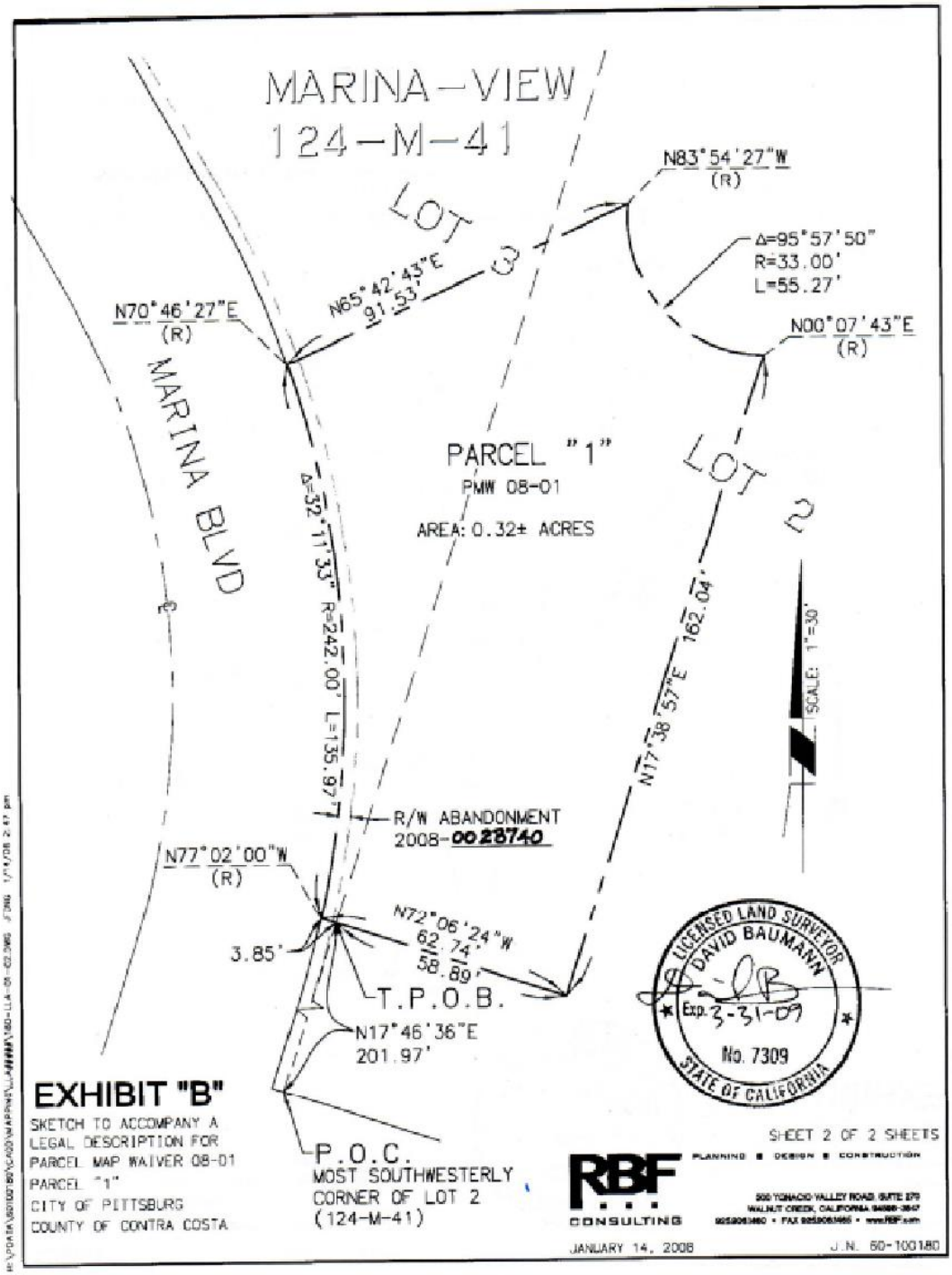
**PARCEL MAP WAIVER 08-01**

That certain Parcel of land situate in the City of Pittsburg, County of Contra Costa, State of California, Lot 2 and Lot 3 of "Official Map of Marina View", filed on October 5, 1968, in Book 124 of Maps, at Page 41, said County Recorder's Office and a portion of Marina Boulevard as said street is shown on said map (124M41) and described in Document No. 2008-0023740, recorded on FEBRUARY 5, 2008 Contra Costa County Official Records, more particular described as follows:

**PARCEL 1**

**COMMENCING** at the most southwesterly corner of said Lot 2; thence along westerly boundary line of said Lot 2 North 17°46'36" East 201.97 feet to the **TRUE POINT OF BEGINNING**; thence leaving said westerly boundary line North 72°06'24" West 3.85 feet to a point on a non-tangent curve concave westerly and having a radius of 242.00 feet, a radial line of said curve from said point bears North 77°02'00" West; thence along said curve northerly 135.97 feet through a central angle of 32°11'33"; thence non-tangent from said curve North 65°42'43" East 91.53 feet to a point on a non-tangent curve concave northeasterly and having a radius of 33.00 feet, a radial line of said curve from said point bears South 83°54'27" East; thence along said curve southerly and southeasterly 55.27 feet through a central angle of 95°57'50"; thence non-tangent from said curve South 17°38'57" West 162.04 feet; thence North 72°06'24" West 58.89 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.32 Acres, more or less.


MARINA-VIEW
124-M-41
LOT 3
LOT 2
N83°54'27"W
(R)
Δ=95°57'50"
R=33.00'
L=55.27'
N00°07'43"E
(R)
N70°46'27"E
(R)
N65°42'43"E
91.53'
MARINA BLVD
PARCEL "1"
PMW 08-01
AREA: 0.32± ACRES
Δ=32°11'33" R=242.00' L=135.97'
N17°38'57"E 162.04'
SCALE: 1"=30'
R/W ABANDONMENT
2008-00028740
N77°02'00"W
(R)
N72°06'24"W
62.74'
58.89'
3.85'
T.P.O.B.
N17°46'36"E
201.97'
P.O.C.
MOST SOUTHWESTERLY
CORNER OF LOT 2
(124-M-41)
LICENSED LAND SURVEYOR
DAVID BAUMANN
Exp. 3-31-09
No. 7309
STATE OF CALIFORNIA
EXHIBIT "B"
SKETCH TO ACCOMPANY A
LEGAL DESCRIPTION FOR
PARCEL MAP WAIVER 08-01
PARCEL "1"
CITY OF PITTSBURG
COUNTY OF CONTRA COSTA
SHEET 2 OF 2 SHEETS
RBF CONSULTING
PLANNING ■ DESIGN ■ CONSTRUCTION
JANUARY 14, 2008
J.N. 60-100180

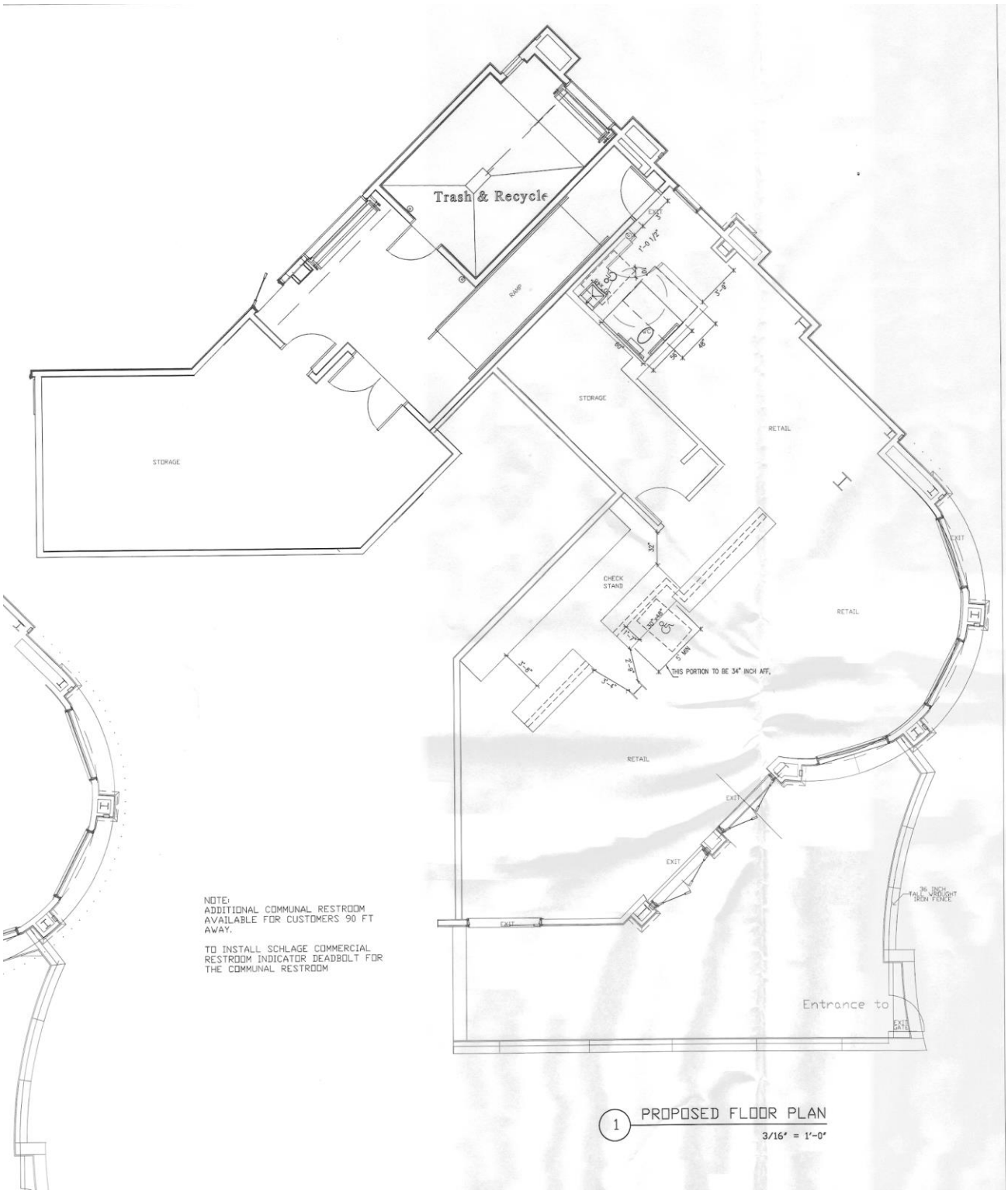
## EXHIBIT B

**Master Lease**

**(Separate Document)**

# EXHIBIT C

## Premises



# EXHIBIT D

## Lessor Equipment

| ITEM # | DESCRIPTION | QUANTITY |
|---|---|---|
| 1 | Refrigerated Food Display Case | 1 |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |

## EXHIBIT E

### Building Costs & Common Area Costs

Maintenance includes but is not limited to:

1. Scheduled exterior cleaning
2. Pest control
3. Elevator (if applicable)
4. Fire and security alarm
5. Fire extinguishers
6. Roof
7. Security cameras
8. Paint exterior
9. Landscaping
10. Parking lot resurfacing and striping
11. Common area facilities and equipment (i.e., backflow device, plumbing, electrical, HVAC)
12. Common area utilities

# MASTER LEASE AGREEMENT

**by and between**

**THE CITY OF PITTSBURG**

**and**

**THE PITTSBURG ARTS AND COMMUNITY FOUNDATION**

THIS MASTER LEASE (this "**Lease**"), dated as of January 18, 2011 (the "**Effective Date**"), is entered into by and between the City of Pittsburg, a municipal corporation (hereinafter "**City**" or "**Landlord**") and the Pittsburg Arts and Community Foundation, a California 501(c)(3) non-profit corporation ("**Tenant**"). Landlord and Tenant are hereafter collectively referred to as the "**Parties.**"

## RECITALS

A. The Redevelopment Agency of the City of Pittsburg ("**Agency**") is the owner of fee title to the real property located at 51 Marina Boulevard, as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "**Property**").

B. The Agency is a Redevelopment Agency formed, existing and exercising its powers pursuant to the provisions of the California Community Redevelopment Law, Health and Safety Code Section 33000, et seq. (the "**CRL**"), the Property is located in the Los Medanos Community Development Project Area (the "**Project Area**"), and the Project Area is governed by the redevelopment plan (as subsequently amended, the "**Redevelopment Plan**").

C. The Agency and the City entered into that certain ground lease dated June 7, 2010 (the "**Ground Lease**"), pursuant to which the Agency leased the Property to the City.

D. The City has constructed on the property a two-story marina commercial building (the "**Marina Building**" ) that will house the offices of the Pittsburg Power Company, Island Energy, and the Property also contains retail/office space, upgraded restrooms and showers and a laundry facility for marina users, and public/common space (the "**Improvements**").

E. The City desires to lease the leasable space within the Marina Building as more particularly described in Exhibit B, attached hereto and incorporated herein by this reference (the "**Premises**") to the Tenant, and the Tenant desires to lease the Premises from the City in order to accomplish the goals set forth by the CRL and the Redevelopment Plan.

F. Article V, Section 5.3 of the Ground Lease authorizes and approves of a master lease by and between the City and the Pittsburg Arts and Community Foundation.

G. Concurrently with the execution of this Lease, the City and the Tenant will enter into a maintenance agreement (the "**Maintenance Agreement**"), substantially in the form attached as Exhibit C

attached hereto and incorporated herein by this reference, for maintenance of certain common and public areas related to the Property.

NOW, THEREFORE, for and in consideration of the covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows.

## ARTICLE I

## DEMISE OF PREMISES

1.1 Definitions. For purposes of this Lease, the following terms have the meanings set forth in this Section. Additional definitions are set forth in the Recitals and the text of this Lease.

(a) "**Applicable Laws**" is defined in Section 6.7.

(b) "**Rent**" is defined in Section 3.3.

(c) "**Claims**" is defined in Section 4.2.

(d) "**Force Majeure**" is defined in Section 13.1.

(e) "**Hazardous Materials**" is defined in Section 7.4.1.

(f) "**Hazardous Materials Claims**" is defined in Section 7.1.

(g) "**Hazardous Materials Laws**" is defined in Section 7.4.2.

(h) "**Impositions**" is defined in Section 4.1.

(i) "**Improvements**" is defined in Section 5.1.

(j) "**Indemnitees**" is defined in Section 4.2.

(k) "**Lease Termination**" is defined in Section 2.1.

(l) "**Premises**" is defined in Exhibit B.

(m) "**Property**" is defined in Exhibit A.

(n) "**Term**" is defined in Section 2.1.

1.2. Creation of Lease. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises for the Term (as defined in Section 2.1 below) on the terms and conditions set forth in this Lease.

1.3. Condition of Title. Landlord leases the Premises to Tenant subject to all easements, covenants, conditions, restrictions and other title matters of record existing as of the Effective Date, and all matters that would be apparent from an inspection of the Premises on the Effective Date.

1.4. Condition of Premises. The Tenant will lease the Premises in its "AS IS" condition as such condition exists as of the Commencement Date. The Tenant acknowledges that except as expressly set forth herein, the City makes no representations or warranties expressed or implied regarding the condition of the Property or the fitness or suitability thereof for the Tenant's purposes, including but not limited to, the condition of the soil, its geology, topography, the presence or absence of fill, the presence or absence of Hazardous Materials, drainage, flood zone designation, or compliance with Hazardous Materials Laws, and no patent or latent defect or deficiency in the condition of the Property shall affect the rights of the Tenant or the City hereunder. The Tenant shall rely solely on its own independent investigation and judgment as to all matters relating to the Property. The Tenant acknowledges and agrees that prior to the Effective Date it has made such investigations of the Premises, including without limitation such inquiries of governmental agencies, soils testing, tests and inspections as Tenant deemed necessary to determine the condition of the Property, and has approved all such characteristics and conditions and shall lease the Premises in its condition as of the Effective Date "AS-IS" "WHERE-IS" AND WITH ALL FAULTS. The Tenant further acknowledges that the City has made available all data and information on the Property available to the Tenant, but without warranty or representation by the City as to the completeness, correctness or validity of such data and information, except as otherwise set forth in this Lease.

1.5 Incorporation of Recitals. The Parties hereby acknowledge the truth of the Recitals set forth above, and such Recitals are hereby incorporated into this Lease.

## ARTICLE II

## TERM OF LEASE

2.1 Term. The term of this Lease (the "**Term**") commences the Effective Date and expires on January 31, 2021. The expiration or sooner termination of the Term shall be referred to as "**Lease Termination.**"

2.2 Option to Extend Term. Tenant has two (2) options to extend the Term for an additional ten (10) years (the "**Options**") each upon the same terms and conditions set forth herein. Tenant shall exercise the Options by delivering written notice of exercise to Landlord by no later than ninety (90) days prior to the expiration of the then-current Term. Landlord has the sole right to approve or deny options to extend this Lease.

2.3 Surrender. Upon the expiration or earlier termination of this Lease, or upon the exercise by Landlord of Landlord's right to reenter the Premises without terminating this Lease, Tenant shall surrender the Premises in good condition and repair except for (a) ordinary wear and tear and (b) casualty covered by Article IX and Section 13.1.

## ARTICLE III

## RENT; MONETARY OBLIGATIONS

3.1 Rent. Commencing on the Effective Date and continuing annually thereafter on January 1 of each year, Tenant shall pay to Landlord as rent for the Premises, the sum of One Dollar ($1) per year ("**Base Rent**"). Base Rent should be paid to the Landlord in lawful money of the United States at the place to which notices are to be delivered pursuant to Section 13.5.3, unless Landlord designates a different address in writing to the Tenant.

3.2 Additional Rent. Tenant also agrees to pay as rent all sums, Impositions (as defined in Section 4.1), costs, expenses, and other payments which Tenant in any of the provisions of this Lease assumes or agrees to pay (collectively, "**Additional Rent**"). If Tenant fails to pay timely any Additional Rent, Landlord has (in addition to all other rights and remedies) all the rights and remedies provided for in this Lease or by law in the case of non-payment of rent, subject to the terms and conditions of this Lease.

3.3 Definition of Rent. The Base Rent payable pursuant to Section 3.1 and Additional Rent payable pursuant to Section 3.2 shall be collectively referred to as "**Rent**" under this Lease.

3.4 Triple Net Lease. This is a triple net lease to the City. With the exception of certain enumerated maintenance requirements set forth in Article VI, it is the intent of the Parties that the Rent shall be an absolutely net return to the City and that the Tenant shall pay all costs and expenses relating to the Premises of any kind or nature whatsoever. Such costs and expenses shall include, without limitation, all amounts attributable to, paid or incurred in connection with the ownership, operation, repair, restoration, maintenance and management of the Premises; real property taxes; rent taxes; gross receipt taxes (whether assessed against the Agency or assessed against the Tenant and collected by the Agency, or both); water and sewer charges; insurance premiums; utilities; refuse disposal; lighting (including outside lighting); fire detection systems including monitoring, maintenance and repair; security; janitorial services; labor; air-conditioning and heating; maintenance and repair costs and service contracts; costs of licenses, permits and inspections; and all other costs and expenses paid or incurred with respect to the Premises.

## ARTICLE IV

## TAXES, ASSESSMENTS AND OTHER CHARGES

4.1 Impositions. Throughout the Term, the Tenant shall pay prior to delinquency, all real property taxes, possessory interest taxes, license and permit fees, sales, use or occupancy taxes, assessments whether general or special, ordinary or extraordinary, unforeseen, as well as foreseen, of any kind or nature whatsoever, pertaining to the Premises or part thereof, including, but not limited to (i) any assessment, levy, imposition or charge in lieu of or in substitution for real estate taxes, and (ii) any assessment for public improvements or benefits which is assessed, levied, or imposed upon or which becomes due and payable and a lien upon (a) the Premises or any part thereof or any personal property, equipment or other facility used in the operation thereof, (b) the rent or income received by the Tenant from subtenants or licensees, if any, (c) any use or occupancy of the Premises or part thereof, or (d) this transaction or any document to which the Tenant is a party creating or transferring an estate or interest in the Premises or part thereof. All of the foregoing are hereinafter referred to as "**Impositions**."

4.1.1 Installments. If by law any Imposition is payable, or may at the option of the taxpayer be paid in installments (whether or not interest accrues on the unpaid balance of such Imposition), the Tenant may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same respectively become due and before any fine or penalty may be added thereto for the nonpayment of any such installment and interest. Any Impositions relating to tax years that are only partially included in the Term of this Lease will be prorated between the Tenant and the Landlord.

4.1.2 Evidence of Payment. Upon request by the Landlord, the Tenant shall furnish, in a form satisfactory to the Landlord, evidence of payment prior to delinquency of all Impositions payable by the Tenant.

4.1.3 Audit. Tenant has the right to audit the Landlord in relation to all costs and expenses that pass through the Landlord and are charged to the Tenant. Tenant must request such audit in writing. The Landlord shall turn over copies of its books and records with 30 days of receiving an audit request from Tenant, or arrange a time for Tenant to review the original books and records during such time that the Landlord is regularly open for business.

4.2 Tenant Right to Contest. The Tenant has the right before any delinquency occurs to contest or object to the amount or validity of any Imposition by appropriate legal proceedings, but such right shall not be deemed or construed in any way as relieving, modifying or extending the Tenant's covenant to pay any such Imposition at the time and in the manner required by law. Any such contest shall be conducted in accordance with and subject to the requirements of all Applicable Laws and otherwise in a manner that does not subject the Landlord's title to the Premises to foreclosure or forfeiture. The Tenant shall indemnify, defend, and hold the Landlord and its elected and appointed officers, officials, employees, agents and representatives (all of the foregoing, collectively the "**Indemnitees**") harmless from and against all liabilities, losses, damages, fines, deficiencies, penalties, claims, demands, suits, actions, causes of action, legal or administrative proceedings, judgments, costs and expenses (including without limitation reasonable attorneys' fees and court costs) (all of the foregoing, collectively "**Claims**") arising as a result of or in connection with any such contest brought by the Tenant. During any contest of an Imposition, the Tenant shall (by payment of disputed sums, if necessary) prevent any advertisement of tax sale, foreclosure of, or any divesting of the Landlord's title, reversion or other interest in the Property or the Premises. Upon final determination of the amount or validity of any Imposition contested pursuant to this Section 4.2, the Tenant shall immediately pay such Imposition and all costs and expenses relating to such challenge.

4.3 Tenant Duty to File. The Tenant shall have the duty of making or filing any declaration, statement or report which may be necessary or advisable in connection with the determination, equalization, reduction or payment of any Imposition which is or which may become payable by the Tenant under the provisions of this Article IV, and shall notify the Landlord in writing upon making such filing, declaration, statement or report, and the Landlord shall not be responsible for the contents of any such declaration, statement or report; provided however, the Landlord shall cooperate with the Tenant in connection with the foregoing, including joinder in any application pertaining thereto to the extent required under Applicable Law, all at no cost to the Landlord.

## ARTICLE V

## ALTERATIONS AND NEW CONSTRUCTION

5.1 Changes and Alterations. During the Term of this Lease, the Tenant shall not make any alteration or addition to the Premises (collectively, the "**Improvements**") that would materially alter the function or exterior appearance of the Premises without the prior written consent of the Landlord. All alterations and additions shall be made at the sole cost and expense of the Tenant and shall comply with all of the following:

(a) The change or alteration shall not materially impair the value or structural integrity of the Improvements.

(b) The change or alteration shall be for a use which is permitted hereunder.

(c) No change, alteration or addition shall be undertaken until Tenant shall have obtained and paid for, so far as the same may be required from time to time, all required permits and authorizations of any federal, state or local government or departments or subdivisions of any of them, having jurisdiction.

(d) Any change, alteration or addition shall be made in a good and workmanlike manner and in accordance with all applicable permits and all Applicable Laws.

(e) During the period of initial construction of the Improvements or the construction of any change, alteration or addition in, to or of, the Improvements, new construction or any restoration, City shall comply with the insurance requirements set forth in Article VIII, which policy or policies by endorsement thereto, if not then covered, shall also insure any change, alteration or addition or new construction, including all materials and equipment incorporated in, on or about the Improvements or the Property

(f) Prior to commencement of any construction, change, alteration or repair Tenant shall deliver to City not later than ten (10) business days written notice of the proposed work and a general description of the proposed work. Such work shall not proceed until Landlord has approved (which approval shall not be unreasonably withheld or delayed) in writing:

(i) Tenant's contractor;

(ii) The amount and coverage of public liability and property damage insurance, with Landlord named as an additional insured, carried by the Tenant's contractor;

(iii) Complete and detailed plans and specifications for such work, and;

(iv) A schedule for the work.

5.2 No Right to Demolish. Notwithstanding any other provisions of this Article V, Tenant shall have no right to demolish any Improvement, once built, without prior written consent of City.

5.3 Fixtures. Tenant shall have the right to place and install personal property, such as trade fixtures, equipment and other temporary installments in and upon the Premises. Tenant shall have the right to remove all personal property during the term of this Lease provided that all damage to the Premises caused by such removal is repaired by the Tenant at the Tenant's expense.

5.4 Indemnity. Tenant agrees to indemnify, defend and hold Landlord harmless for any work performed, including consequential damages, which is not performed in accordance with applicable law or the provisions of this Lease.

## ARTICLE VI

## USE OF THE PREMISES; UTILITIES; MAINTENANCE; COMPLIANCE WITH LAWS

6.1 Use of Premises

6.1.1 Permitted Uses. It is agreed that the Premises may be used only for improving the quality of life in Pittsburg, California, for public purposes, or for commercial purposes consistent with the Tenant's organizational goals. Tenant acknowledges and agrees that the success of this Premises to reach this goal is dependant upon Tenant using good faith discretion in the subleasing of the Premises to any subtenants. Tenant shall obtain and keep in effect all licenses and entitlements required for this use of the Premises and shall comply with all terms and conditions of said licenses and entitlements.

6.1.2 Parking. Tenant shall have the nonexclusive use, in common with the Landlord, of the non-reserved common automobile parking areas and driveways. Tenant agrees to cause Tenant and its employees to park their automobiles in accordance with Landlord's parking rules and regulations as established from time to time.

6.1.3 Signs. At Tenant's sole expense, Tenant may install exterior signs, which comply with state and local law, on the Premises.

6.1.4 Prohibited Uses. Tenant shall not use the Premises for or carry on or permit in or upon the Premises, or any part thereof, any offensive, noisy or dangerous trade, business, manufacture or occupation, or any nuisance, or anything against public policy, or interfere with the business of any other tenants or occupants in the Property, or permit any going-out-of-business, auction, liquidation, fire or bankruptcy sale to be held or conducted in and about the Premises. Tenant agrees not to cause, permit or suffer any waste, damage disfigurement or injury to the Premises, to the fixtures or equipment thereon, or to the Common Areas, not to permit or suffer any overloading of the floor of the Premises or other parts of the Property. Tenant shall not use the Premises for washing clothes or cooking, and nothing shall be prepared, manufactured or mixed in the Premises which emits any odor into the Property. No secondhand store shall be conducted on the Premises. The prohibition against washing clothes and cooking as provided in the paragraph shall not be applicable to tenants or occupants whose business is that of a restaurant or other food service business.

6.1.5 Electrical Equipment. Tenant shall not install, operate or maintain in the Premises any electrical equipment which does not bear the Underwriters Laboratory approval, or which equipment would overload any portion of the electrical system of the Property in Landlord's sole determination.

6.1.6 Nuisance. Tenant shall not do or permit anything to be done in or about the Premises which shall in any way obstruct or interfere with the operation of the Property or Common Area or with the rights of other tenants or occupants of the Property or Common Areas or injure, disturb or annoy other tenants or occupants of the Property of Common Areas.

6.1.7 Access by Landlord. Landlord reserves the right for Landlord and Landlord's Authorized Representatives to enter the Premises at any reasonable time: (a) to inspect the Premises; (b) to supply services to be provided by Landlord to Tenant under this Lease; (c) to show the Premises to prospective lenders, purchasers or tenants; (d) to alter, improve, maintain or repair the Premises or any portion of the Property; (e) to install, maintain, repair, replace or relocate any pipe, duct, conduit, wire or equipment serving other portions of the Property but located in the ceiling, wall or floor of the Premises; (f) to determine whether Tenant is complying with Tenant's obligations hereunder; (g) to perform any other obligation of Tenant after Tenant's failure to perform same; or (h) upon default by Tenant under this Lease. If Landlord enters the Premises for the purposes set forth in items (b), (d), (e) or (g) of the preceding sentence, Landlord may erect scaffolding and store tools, materials, and equipment in the Premises when required by the character of the work to be performed. Landlord shall not unreasonably interfere with Tenant's business at the Premises in exercising its rights under this Section 6.1.7, unless an emergency situation exists.

6.2 Nondiscrimination. Tenant hereby covenants by and for itself and its successors and assigns, and all persons claiming under or through it, and this Lease is made and accepted upon and subject to the conditions that there shall be no discrimination against or segregation of any person or group of persons on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises nor shall Tenant or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises.

6.3. Utilities. The Premises shall have separate meters for measuring the amounts of gas and electricity furnished to the Premises. Tenant shall promptly pay all charges for heat, gas, electricity, telephone, air conditioning, ventilating, and any other utilities and/or materials used or consumed on the Premises. Tenant shall arrange for the provision of such services and shall make payment therefore directly to the public utility or other company providing such services.

6.3.1 Interruption of Utilities. Landlord shall not be liable to Tenant in damages or otherwise: (i) if any utility becomes unavailable from any public utility company, public authority or any other person or entity supplying or distributing such utility; or (ii) for any disruption in any utility service caused by the making of any repairs or improvements or by any cause beyond Landlord's reasonable control, and such interruption shall not constitute a termination of this Lease, or an eviction of Tenant, and/or give Tenant the right to reduce or abate Rent.

6.4 Maintenance, Repairs and Inspection of the Premises.

6.4.1 Tenant's Maintenance and Repairs Obligations. At the Tenant's sole cost and expense throughout the Term, the Tenant shall operate, maintain, repair and manage the Premises

including all landscaping and Improvements thereon in good order and repair and in neat, clean sanitary and safe condition in compliance with all local, state and federal laws, statutes and regulations relating to the use, occupancy or operation of the Premises. The Tenant shall ensure that the Premises is served by adequate lighting in accordance with applicable building codes. The Tenant shall promptly, at the Tenant's own cost and expense, make all necessary repairs, including replacements or renewals when necessary, and all such repairs shall be at least equal in quality to the original work, reasonable wear and tear accepted. The Tenant shall keep and maintain all portions of the Premises in a clean and orderly condition, free of accumulation of dirt, rubbish, and graffiti. If Tenant so chooses, Tenant shall be responsible for arranging and payment for the provision of janitorial services to the Premises. All repairs by Tenant shall be completed by contractors approved by Landlord. Any replacements required of Tenant shall be made with equipment and/or materials equal to the specification and quality of the original. The Tenant's failure to maintain the Premises in accordance with this Lease shall, in the Landlord's discretion, be grounds for termination of this Lease pursuant to Article XII.

6.4.2. Landlord's Maintenance and Repairs Obligations. Landlord shall maintain: a) roofs (excluding interior ceilings), foundations, and exterior walls at the Premises (excluding all doors, plate glass, storefronts, display and other windows) and (b) plumbing, pipes and conduits. Tenant shall reimburse Landlord within ten (10) days of receipt of an invoice for all costs and expenses incurred by Landlord which are required to make any repair to the Premises in connection with or resulting from (i) any alteration or modification to the Premises performed by, for or because of Tenant or to special equipment or systems installed by, for or because of Tenant, (ii) the installation, use or operation of Tenant's property, fixtures and equipment, (iii) the moving of Tenant's property into or out of the Premises or in and about the Premises, (iv) Tenant's use or occupancy of the Premises in violation of this Lease or in a manner not contemplated by the parties at the time of execution of this Lease (e.g., subsequent installment of special use rooms), or (v) the acts or omissions of Tenant or Tenant's invitees, subtenants, and/or licensees, all of which shall be solely Tenant's obligation.

6.4.3 Common Area Maintenance. The Parties agree that maintenance of the landscaping, pedestrian walkway, refuse collection area serving the Property, and abutting public sidewalks (collectively, the "**Common Area**") shall be completed in a consistent and first-class manner. Upon execution of this Agreement, the City and the Tenant shall enter into the Maintenance Agreement for the maintenance of the common areas in substantially the form attached hereto as Exhibit C. Pursuant to the Maintenance Agreement, the Tenant shall pay a fee to the Agency for maintenance of the Common Area (the "**Maintenance Charge**").

6.4.4 Inspection. At any time during the Term, with not less than three (3) days notice and during normal business hours, the Landlord may conduct interior and/or exterior inspections of the Premises to confirm that it is being properly maintained as required by this Lease. Following its inspection, the Landlord may deliver to the Tenant written notification of any portions of the Premises which the Landlord has determined are not being properly maintained, and the Tenant shall promptly prepare and deliver to the Landlord the Tenant's proposed plan for remedying the indicated deficiencies. The Tenant's failure to deliver a remedial plan and to complete remedial work within a reasonable time as determined by the Landlord in its reasonable discretion shall be a default under this Lease. Landlord's failure to deliver, following any Landlord's inspection, any notice of deficiency to Tenant, shall not be a waiver of any default by Tenant under this Article. The Tenant shall defend, indemnify and hold the Indemnitees harmless from and against any and all Claims arising out of the Tenant's failure to fully and timely fulfill its obligations to maintain and repair the Premises as required hereunder.

6.5 Landlord's Right to Perform Tenant Obligations. If following notice and the expiration of any applicable cure period as set forth in Section 12.2, the Tenant fails to perform its obligations to maintain the Premises in accordance with the standards set forth in this Lease, the Landlord shall have the right, but not the obligation, to perform such work upon delivery of written notice to the Tenant, and the Tenant shall reimburse the Landlord for all expenditures the Landlord incurs in connection with such work. The Landlord's election to undertake such obligation shall not operate as a waiver of any other right or remedy the Landlord may have pursuant to this Lease.

6.6 Landlord Not Obligated to Perform Repairs. Notwithstanding any contrary provision in this Lease, the Landlord shall not be obligated to make any repairs, alterations, additions, improvements or betterments to the Premises caused by Tenant during the term of this Lease nor shall the Landlord be obligated to maintain or operate the Premises.

6.7 Compliance with Laws. The Tenant, at its sole cost and expense, shall comply with all applicable state and federal laws and regulations, including without limitation, all applicable state and federal labor laws and standards, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., California Government Code Section 4450, et seq., California Government Code Section 11135, et seq., and the Unruh Civil Rights Act, California Civil Code Section 51, et seq. The Tenant shall comply with all City ordinances and regulations relating to noise, business hours, pertaining to the use, operation, and management of the Premises. (All of the foregoing state, federal and local laws, regulations and ordinances are referred in this Lease as the "**Applicable Laws**.")

The Tenant shall not use the Premises for any unlawful purpose or perform, permit or suffer any act of omission or commission upon or about the Property or the Premises which would result in a nuisance or a violation of law. The Tenant shall use its best efforts to not permit any permittees, licensees, guests or invitees to use the Premises for any unlawful purpose or perform, permit or suffer any act of omission or commission upon or about the Property or the Premises which would result in a nuisance or a violation of law.

6.8 Tenant Right to Contest. The Tenant shall have the right to contest by appropriate proceedings, in the name of the Tenant, and without cost or expense to the Landlord, the validity or application of any Applicable Law. If compliance with any Applicable Law may legally be delayed pending the prosecution of any such proceeding without the incurrence of any lien, charge or liability against the Premises or Tenant's interest therein, and without subjecting the Tenant or the Landlord to any liability, civil or criminal, for failure so to comply therewith, the Tenant may delay compliance therewith until the final determination of such proceeding. The Tenant shall indemnify, defend, protect and hold the Indemnitees harmless from and against all Claims arising in connection with any such contest brought by the Tenant. The foregoing indemnity obligation shall survive the expiration or earlier termination of this Lease.

## ARTICLE VII

## ENVIRONMENTAL MATTERS

7.1 Tenant's Covenants. The Tenant hereby covenants and agrees that throughout the Term:

(a) The Premises, and the use and operation thereof, shall be in compliance with all Hazardous Materials Laws, and the Tenant shall not cause or permit the Premises or any portion thereof to be in violation of any Hazardous Materials Laws.

(b) The Tenant shall not permit the Premises or any portion thereof to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials nor shall the Tenant permit the presence or release of Hazardous Materials in, on, under, about or from the Premises with the exception of materials customarily used in construction, operation, use or maintenance of the Business, provided such materials are used, stored and disposed of in compliance with Hazardous Materials Laws.

(c) Upon receiving knowledge of the same, the Tenant shall immediately advise the City in writing of: (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against the Tenant, the Premises or the Property pursuant to any applicable Hazardous Materials Laws; (ii) any and all complaints, claims, citations, demands, inquiries, reports, or notices made or threatened by any third party against the Tenant, the Premises or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials; (iii) the presence or release of any Hazardous Materials in, on, under, about or from the Premises or the Property; or (iv) Tenant's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property classified as "Border Zone Property" under the provisions of California Health and Safety Code, Sections 25220 *et seq.*, or any regulation adopted in connection therewith, that may in any way affect the Premises or Property pursuant to any Hazardous Materials Laws or cause it or any part thereof to be designated as Border Zone Property. The matters set forth in the foregoing clauses (i) through (iv) are hereinafter referred to as "**Hazardous Materials Claims**." The City shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claim, and to have its reasonable attorney's fees in connection therewith paid by the Tenant.

(d) Without the City's prior written consent, which shall not be unreasonably withheld, the Tenant shall not take any remedial action in response to the presence of any Hazardous Materials in, on, under, or about the Premises or the Property (other than in emergency situations or as required by governmental agencies having jurisdiction in which case the City agrees to provide its consent), nor enter into any settlement agreement, consent decree, or other compromise with respect to any Hazardous Materials Claim.

(e) If the presence of any Hazardous Material on the Premises or the Property results in any contamination of the Property in violation of Hazardous Materials Laws, except to the extent such contamination is caused by the City, the Tenant shall promptly take all actions at its sole expense as are necessary to remediate the Premises or Property as required by law; provided that the City's approval of such actions shall first be obtained, which approval may be withheld in the City's reasonable discretion. All costs and expenses of any Remedial Work shall be paid by the Tenant, it being understood that the City

shall incur no cost, expense or liability in connection with any Remedial Work. The City shall have the right, but no obligation, to join and participate in, as a party if it so elects at the City's cost, any legal proceedings or actions initiated in connection with any Hazardous Material Claims. For purposes of this Lease, "**Remedial Work**" means all investigation, testing, analysis, monitoring, restoration, abatement, detoxification, containment, handling, treatment, removal, storage, decontamination, clean-up, transport, disposal or other ameliorative work or response action required by (i) any Hazardous Materials Laws, (ii) any order or request of any federal, state or local governmental City, or (iii) any judgment, consent decree, settlement or compromise with respect to any and all enforcement, clean-up, removal, remedial or other governmental or regulatory actions or agreements or orders threatened, instituted, or completed pursuant to any Hazardous Materials Laws or any actions, proceedings or claims by such entities or third parties relating to or arising out of the breach of any Hazardous Materials Laws or the presence or release of any Hazardous Material in, on, under or from the Premises or the Property.

7.2 Release of Claims. The Tenant hereby waives, releases and discharges forever the Indemnitees from all present and future Claims the Tenant may have arising directly or indirectly from the presence or alleged presence of Hazardous Materials on, under, in or about the Premises; provided however, this release excludes and shall not apply to (i) any Hazardous Material that originates from any City- or Agency-owned property other than the Property and which migrates onto the Premises after the Effective Date, or (ii) any Hazardous Materials that are generated or caused by the Indemnitees' acts or omissions after the Effective Date.

The Tenant is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

As such relates to this Section 7.2, the Tenant hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

_____
Tenant Initials

7.3 Environmental Indemnity. The Tenant shall indemnify, defend (with counsel reasonably acceptable to the City) and hold the Indemnitees harmless from and against all Claims arising during the Term and resulting, arising, or based directly or indirectly in whole or in part, upon (i) the presence, release, use, generation, discharge, transport, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from the Premises during the Term, (ii) the failure of the Tenant, the Tenant's employees, agents, contractors, subcontractors, licensees, permittees, or any person acting on behalf of any of the foregoing to comply with Hazardous Materials Laws, or (iii) the breach by the Tenant of any of its covenants contained in this Article VII. The foregoing indemnity shall further apply to any residual contamination in, on, under or about the Premises or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with

Hazardous Materials Laws and shall include, without limitation, any Claims arising in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work ordered by a court or required by any federal, state, or local governmental agency or political subdivision. This Section 7.3 shall survive the expiration or earlier termination of this Lease.

7.4 Definitions.

7.4.1 Hazardous Materials. As used in this Lease, "**Hazardous Materials**" means any substance, material, or waste which is or becomes regulated by any local, state or federal authority, agency or governmental body, including any material or substance which is: (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) friable asbestos; (vii) polychlorinated biphenyls; (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (ix) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317); (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901, *et seq.* (42 U.S.C. §6903); or (xi) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, *et seq.*, as the foregoing statutes and regulations now exist or may hereafter be amended.

7.4.2 Hazardous Materials Laws. As used in this Lease "**Hazardous Materials Laws**" means all federal, state and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials, including without limitation, the laws, statutes and regulations cited in the preceding Section 7.4.1, as any of the foregoing may be amended from time to time.

## ARTICLE VIII

## INDEMNITY AND INSURANCE

8.1 Indemnity. To the fullest extent allowed by law, the Tenant shall indemnify, defend and hold the Indemnitees harmless from and against any and all Claims arising during the Term and arising from or in connection with any of the following: (i) the operation or management of the Premises, (ii) any work or thing done on or in the Premises, (iii) any condition of any alteration or addition constructed by the Tenant on the Premises, (iv) any breach or default by the Tenant in the performance of any covenant or agreement to be performed by the Tenant pursuant to the terms of this Lease, (v) any negligence of the Tenant, or any of its agents, contractors, subcontractors, employees, or licensees, (vi) any accident, injury or damage caused to any person occurring during the Term in or on the Premises, and (vii) the furnishing of labor or materials by the Tenant or its contractors, subcontractors, employees, or agents. In the event any such action or proceeding is brought against the City by reason of any such Claim, the Tenant, upon notice from the City, covenants to defend such action or proceeding by counsel reasonably satisfactory to

the City. If an insurer under insurance required to be maintained by the Tenant hereunder shall undertake to defend the City under a reservation of rights with respect to ultimate coverage and the City shall reasonably deem it necessary to retain independent counsel with respect to such matter, the Tenant shall pay the reasonable fees of such counsel. The obligations of the Tenant under this Article XIII shall not apply to any Claim or other matter to the extent such arises as a result of the gross negligence or willful misconduct of the Indemnitees. This Section shall survive the expiration or earlier termination of this Lease.

8.2 Insurance Requirements. The Tenant shall procure, at its sole expense, and maintain in full force and effect during the Term, the following insurance naming the City as additional insured and/or loss payee:

(a) Comprehensive General Liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the operation of the Premises and the Business with a policy limit of at least Two Million Dollars ($2,000,000) per occurrence.

(b) Workers' compensation insurance that complies with the statutory requirements of the State of California.

(c) Automobile liability insurance for owned, hired and non-owned vehicles, with a combined single limit of at least One Million Dollars ($1,000,000).

Upon Agency's request, Tenant shall furnish City with certificates of insurance evidencing the required insurance coverage. Any third party certificates shall contain a statement of obligation on the part of the carrier to notify City and Tenant of any cancellation, termination or nonrenewal of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation, termination or nonrenewal.

## ARTICLE IX

## DAMAGE AND DESTRUCTION

9.1 Damage or Destruction. In the event of any damage to or destruction of the Premises during the Term, the City shall elect by written notice delivered to Tenant within sixty (60) days following the date of the occurrence of the damage to either remove the Premises or restore and rebuild the Premises as nearly as possible to their condition immediately prior to such damage or destruction, subject to any restrictions imposed by changes in any Applicable Law. If the City elects to restore the Premises, the City shall commence diligently and continuously to carry out such rebuilding to full completion as soon as possible and shall commence reconstruction of the Premises within the earlier of ninety (90) days following the date of occurrence of the damage or the date upon which insurance proceeds are made available for such work. If the City elects to restore the Premises, the City shall confer with the Tenant regarding the design and plans for such restoration of the Premises. Upon the occurrence of damage or destruction, all insurance proceeds paid in respect of such damage or destruction shall be applied to the payment of the costs of the restoration and rebuilding required to be performed by the City pursuant to this Lease. If the City does not elect to restore the Premises and the City does not exercise its right to terminate this Lease within 120 days following the date of the occurrence of the damage, then at the City's option this Lease shall terminate upon delivery of written notice to the Tenant.

9.2 Rent Abatement. In the event of any material damage to or destruction of the Premises during the Term, the City will abate Rent to the extent that Tenant is prevented from occupying the Premises, or any portion thereof, for the uses authorized in this Lease.

9.3 Notice Required. In the event of material damage to or destruction of the Premises, or any part thereof, the Tenant shall promptly give the City notice of such occurrence and take all actions reasonably required to protect against hazards caused by such damage or destruction. For purposes of this Article IX, damage or destruction shall be deemed to be material if the estimated cost to repair equals or exceeds Fifty Thousand Dollars ($50,000).

9.4 City's Right to Terminate. Notwithstanding any contrary provision of this Article IX, the City shall have the option to terminate this Lease and be relieved of the obligation to restore the Premises where all or substantially all of the Premises are substantially damaged or destroyed and such damage or destruction resulted from a cause not insured against by the Tenant and/or the City nor required to be insured against by the Tenant and/or the City under this Lease.

## ARTICLE X

## CITY'S RIGHT TO PERFORM TENANT'S COVENANTS

10.1 If the Tenant shall at any time fail to pay any Imposition or other charge payable by the Tenant to a third party as required by this Lease, or to comply with the requirements set forth in Section 8.2 pertaining to insurance, or to make any other payment or perform any other act on its part to be made or performed hereunder within the time permitted by this Lease, then the City, after thirty (30) days' written notice to the Tenant and without waiving or releasing the Tenant from any obligation of the Tenant hereunder, may (but shall not be required to): (i) pay such Imposition or other charge payable by the Tenant; (ii) pay for and maintain the insurance policies required pursuant to this Lease, or (iii) make such other payment or perform such other act on the Tenant's part to be made or performed under this Lease; and the City may enter upon the Premises for such purpose and take all such action thereon as may be reasonably necessary therefor.

## ARTICLE XI

## ASSIGNMENT, TRANSFER, SUBLETTING; NONDISTURBANCE AND ATTORNMENT

11.1 Subletting Permitted.

11.1.1 Tenant may sublease all or a portion of the Premises or Improvements provided that the following requirements are met:

(a) The contemplated use of the Premises by sublessee does not conflict with the permitted uses described in Section 6.1 or any Applicable Laws;

(b) The proposed assignee or subtenant is permitted use for the Premises;

(c) The proposed subletting would not breach any covenant of the Tenant in this Lease; and

(d) The proposed subletting does not require any change or changes to the provisions of this Lease.

11.1.2 Form of Sublease

The Tenant shall use a form of sublease approved by the City. The form of sublease will comply with all requirements of this Lease and will, among other matters:

(a) be for a term of not less than one year, unless by mutual agreement between the City and the Tenant;

(b) include the following nondiscrimination language. "Tenant hereby covenants by and for itself and its successors and assigns, and all persons claiming under or through it, and this Lease is made and accepted upon and subject to the conditions that there shall be no discrimination against or segregation of any person or group of persons on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises nor shall Tenant or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises."

11.2 Restrictions on Transfer, Assignment; Landlord's Election to Terminate Lease. The Tenant shall not sell or assign its leasehold interest hereunder or any portion of its interest in the Premises or Improvements, voluntarily, involuntarily, by operation of law or otherwise without the City's prior written consent, which shall not be unreasonably withheld. No voluntary or involuntary assignee of the Tenant shall acquire rights or powers under this Lease absent such consent.

Landlord may elect to terminate this Lease in the event of a proposed assignment of this Lease. If Landlord elects to terminate this Lease or any portion thereof, Tenant shall surrender possession of the Premises, or the portion thereof which is the subject of the termination, as the case may be, on the date set forth in such notice in accordance with the provisions of this lease relating to surrender of the Premises at the expiration of the Term. If this Lease is terminated as to a portion of the Premises only, Rent after the date of termination shall be reduced on a pro rata basis, as determined by Landlord. After any such termination, Landlord may directly lease the Premises to any party, including, without limitation, any party with whom Tenant previously discussed an assignment.

11.3 Documentation and Expenses. Any sublease or any assignment, conveyance or transfer to which Landlord has consented to in writing ("**Permitted Transfers**") shall be evidenced by an instrument in writing and executed by Tenant and the transferee. Notwithstanding any permitted subletting, Tenant and any guarantors shall remain fully liable to perform its and/or their obligations under this Lease. Tenant shall, on demand of Landlord, reimburse Landlord for Landlord's administrative fees and Landlord's reasonable legal fees incurred by Landlord in obtaining advice and preparing documentation in connection with any proposed Transfer, whether or not Landlord's consent is given.

11.3 Vacancies. The Tenant shall use all reasonable efforts to ensure that the Premises is fully occupied at all times during the Term.

11.4 No Involuntary Transfers. Without limiting any other restrictions on transfer contained in this Lease, no interest of the Tenant in this Lease, the Premises or part thereof shall be assignable or transferable: (i) pursuant to any voluntary or involuntary proceeding under federal or state bankruptcy or insolvency law; (ii) pursuant to any assignment of the Tenant's assets for the benefit of its creditors; or (iii) pursuant to any order of attachment, garnishment, receivership, or similar action.

Any involuntary transfer described in this Section 11.4 shall constitute an Event of Default under this Lease by the Tenant, and the City shall have the right to terminate this Lease pursuant to Article XII as a result of any such transfer taking place, in which case this Lease shall not be treated as an asset of the Tenant.

11.5 Assumption Agreement and Release. No Permitted Transfer shall be effective until any curable default hereunder shall have been cured and there shall have been delivered to the City an assumption agreement, executed by the transferor and the proposed transferee, whereby such transferee expressly assumes such obligations as arise and/or accrue at any time after such Permitted Transfer takes place; and whereby such transferee assumes liability for the obligations of this Lease.

11.6 Nondisturbance. Provided that the Tenant is not in default under this Lease, the Tenant's possession, use and enjoyment of the Premises shall not be interfered with, disturbed or diminished, or otherwise affected in any manner as a result of any act or omission of the City, or any exercise of any remedies under this Lease. The Tenant shall also ensure that its possession, uses and enjoyment of the Premises does not interfere with, disturb or diminish or otherwise affect in any manner any other tenants or subtenants in the Property.

## ARTICLE XII

## DEFAULT; REMEDIES; TERMINATION

12.1 Events of Default.

12.1.1 Tenant Event of Default. Tenant shall be in default under this Lease upon the occurrence of any of the following ("**Events of Default**"):

(a) Monetary Obligation. Tenant at any time is in default hereunder as to any monetary obligation required by this Lease, and such default continues for thirty (30) days after Tenant receives Notice of Breach (as defined in Section 12.2.1);

(b) Insurance. Tenant fails to obtain and maintain any policy of insurance required pursuant to this Lease, and Tenant fails to cure such default within ten (10) days following receipt of Notice of Breach;

(c) Abandonment. Tenant abandons or ceases to use the Property or Premises in accordance with Section 1951.3 of the California Civil Code except when prevented by Force Majeure;

(d) Transfer. A voluntary or involuntary Transfer of all or any portion of the Tenant's interest in this Lease occurs in violation of the provisions of Article XI;

(e) Bankruptcy. Tenant files a voluntary petition in bankruptcy or files any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator of Tenant or of all or any substantial part of its property, or of any or all of the royalties, revenues, rents, issues or profits thereof, or makes any general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due;

(f) Attachment. A writ of execution or attachment or any similar process is issued or levied against all or any part of the interest of Tenant in the Property or Premises and such execution, attachment or similar process is not released, bonded, satisfied, or vacated or stayed within sixty (60) days after its entry or levy, such sixty (60) day period to be extended during any period of a bona fide appeal diligently pursued by Tenant;

(g) Reorganization. A court of competent jurisdiction enters an order, judgment or decree approving a petition filed against the Tenant seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree remains unvacated and unstayed for an aggregate of sixty (60) days from the first date of entry thereof, or any trustee receiver or liquidator of the Tenant or of all or any substantial part of its property, or of any or all of the royalties, revenues, rents, issues or profits thereof is appointed without the consent or acquiescence of the Tenant and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, such sixty (60) day period to be extended in all cases during any period of a bona fide appeal diligently pursued by Tenant;

(h) Nonmonetary Obligations. Tenant is in default in any other of its promises, covenants or agreements contained in this Lease, and such default shall continue for thirty (30) days after Tenant receives Notice of Breach specifying the particulars of such default, unless Tenant commences to cure the default within thirty (30) days and thereafter prosecutes the curing of such default with due diligence and in good faith.

12.1.2 Landlord Event of Default. Landlord is in default under this Agreement if Landlord fails in the performance of any obligation required to be performed by Landlord ("**Landlord Event of Default**") within thirty (30) days after the receipt of a Notice of Breach from Tenant specifying in detail Landlord's failure to perform; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, Landlord will not be in default if it commences performance within thirty (30) days and thereafter diligently pursues curing the Landlord Event of Default to completion.

12.2 Notice and Opportunity to Cure.

12.2.1 Notice of Breach. Unless expressly provided otherwise in this Lease, no breach by a party shall be deemed to have occurred under this Lease unless another party first delivers to the nonperforming party a written request to perform or remedy (the "**Notice of Breach**"), stating clearly the

nature of the obligation which such nonperforming party has failed to perform, and stating the applicable period of time, if any, permitted to cure the default.

12.2.2 Failure to Give Notice of Breach. Failure to give, or delay in giving, Notice of Breach shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Lease, any failure or delay by either party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delay by either party in asserting any of its rights and remedies shall not deprive such party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.

12.3 Remedies Upon Default.

12.3.1 City's Remedies. Upon the occurrence of any Event of Default and in addition to any and all other rights or remedies of the City hereunder and/or provided by law, the City shall have the right to terminate this Lease and/or the Tenant's possessory rights hereunder, in accordance with applicable law to re-enter the Premises and take possession thereof and of any Improvements, and except as otherwise provided in this Lease, to remove all persons and property therefrom, and to store such property at the Tenant's risk and for the Tenant's account, and the Tenant shall have no further claim thereon or hereunder. The City's re-entry or taking of possession of the Premises shall not be construed as an election on the City's part to terminate this Lease unless the City shall have given written notice of such intention to the Tenant. In no event shall this Lease be treated as an asset of the Tenant after any final adjudication in bankruptcy except at the City's option so to treat the same but no trustee, receiver, or liquidator of the Tenant shall have any right to disaffirm this Lease.

12.3.2 Remedies Upon Abandonment. If the Tenant should default under this Lease and abandon the Premises, the City may, at its option, enforce all of its rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder. Additionally, the City shall be entitled to recover from the Tenant all costs of maintenance and preservation of the Premises, and all costs, including attorneys' and receiver's fees incurred in connection with the appointment of and performance by a receiver to protect the Premises and the City's interest under this Lease.

12.3.3 City Right to Continue Lease. In the event of any default under this Lease by the Tenant (and regardless of whether or not the Tenant has abandoned the Premises), this Lease will not terminate (except by an exercise of the City's right to terminate under this Section 12.3) unless the City makes such election by the giving of any notice (including, without limitation, any notice preliminary or prerequisite to the bringing of legal proceedings in unlawful detainer) to terminate the Tenant's right to possession. For so long as this Lease continues in effect, the City may enforce all of the City's rights and remedies under this Lease, including, without limitation, the right to recover all rent and other monetary payments as they become due hereunder. For the purposes of this Lease, the following shall not constitute termination of the Tenant's right to possession: (a) acts of maintenance or preservation or efforts to relet the Premises; or (b) the appointment of a receiver upon initiative of the City to protect the City's interest under this Lease.

12.3.4 Right to Injunction; Specific Performance. In the event of a default by the Tenant under this Lease, the City shall have the right to commence an action against the Tenant for damages,

injunction and/or specific performance. The Tenant's failure, for any reason, to comply with a court-ordered injunction or order for specific performance shall constitute a breach under this Lease.

12.3.5 Right to Receiver. Following the occurrence of an Event of Default, if the Tenant fails after receipt of a Notice of Default to cure the default within the time period set forth in this Lease, the City, at its option, may have a receiver appointed to take possession of the Tenant's interest in the Premises with power in the receiver (a) to administer the Tenant's interest in the Premises, (b) to collect all funds available in connection with the operation of the Premises, and (c) to perform all other acts consistent with the Tenant's obligations under this Lease, as the court deems proper.

12.4 Tenant Remedies. Upon the occurrence of a Landlord Event of Default, Tenant may exercise any of its rights provided in law or at equity and has the right, but not the obligation, to cure the Landlord Event of Default and to provide an invoice for costs incurred by Tenant to City. City must either (i) pay any invoice provided pursuant to this Section 12.4 within thirty (30) days of receipt or (ii) provide written notice disputing such costs within thirty (30) days of receipt of such invoice.

12.5 Remedies Cumulative. No remedy specified in this Article XII shall be considered exclusive of any other remedy, but the same shall be cumulative and shall be in addition to every other remedy provided hereunder or now or hereafter existing at law or in equity or by statute, and every power and remedy provided by this Lease may be exercised from time to time and as often as occasion may arise or as may be deemed expedient, subject to any limitations set forth in this Lease.

12.6 No Election of Remedies. The rights given in this Article XII to receive, collect or sue for any rent or rents, moneys or payments, or to enforce the terms, provisions and conditions of this Lease, or to prevent the breach or nonobservance thereof, or the exercise of any such right or of any other right or remedy hereunder or otherwise granted or arising, shall not in any way affect or impair or toll the right or power of the City upon the conditions and subject to the provisions in this Lease to terminate the Tenant's right of possession because of any default in or breach of any of the covenants, provisions or conditions of this Lease beyond the applicable cure period.

12.7 Survival of Obligations. Nothing in this Lease affects the right of the City under VIII of this Lease to indemnification for liability arising prior to the termination of this Lease for personal injuries or property damage, nor shall anything in this Lease be deemed to affect the right of the City to equitable relief where such relief is appropriate. No expiration or termination of the Term by operation of law, or otherwise, and no repossession of the Improvements or any part thereof will relieve the Tenant of its previously accrued liabilities and obligations hereunder, all of which survive such expiration, termination or repossession.

## ARTICLE XIII

## GENERAL PROVISIONS

13.1 Force Majeure. Subject to the limitations set forth below, performance by either Party shall not be deemed to be in default, and all performance and other dates specified in this Lease shall be extended where delays are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions or priority, litigation, including court delays, unusually severe weather, acts or

omissions of the other Party, acts or failures to act of any public or governmental agency or entity (other than the Parties which shall not excuse delay in performance), or any other cause beyond the affected Party's reasonable control (all of the foregoing "**Force Majeure**"). An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause and such extension is not rejected in writing by the other Party within ten (10) days of receipt of the notice. Neither Party shall unreasonably withhold consent to an extension of time pursuant to this Section.

13.2 Extension of Times of Performance. Times of performance under this Lease may also be extended in writing by the mutual agreement of the Tenant and the City (acting in the discretion of its Executive Director unless he or she determines in his or her discretion to refer such matter to the governing board of the City). Each Party expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Effective Date.

13.3 City's Right to Enter the Premises. The City and its agents may enter the Premises from time to time with reasonable notice, except in the case of emergency in which case no notice shall be required, to inspect the same, to post notices of nonresponsibility and similar notices, and to discharge the Tenant's obligations hereunder when the Tenant has failed to do so within a reasonable time after written notice from the City.

13.4 Representations of City and Tenant.

13.4.1 Representations of the Tenant. The Tenant hereby represents and warrants that all of the following are true and correct as of the Effective Date:

(a) The Tenant has taken all requisite action in connection with the execution of this Agreement and the undertaking of the obligations set forth in this Lease. This Lease constitutes the legally valid and binding obligation of the Tenant, enforceable against the Tenant in accordance with its terms, except as it may be affected by bankruptcy, insolvency or similar laws or by legal or equitable principles relating to or limiting the rights of contracting parties generally; and

(b) The execution of this Lease and the acceptance of the obligations set forth in this Lease do not violate any court order or ruling binding upon the Tenant or any provision of any indenture, agreement or other instrument to which Tenant is a party or may be bound. Neither the entry into nor the performance of this Lease will violate, be in conflict with or constitute a default under any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, judgment, order or other agreement, charge, right or interest applicable to the Tenant.

13.4.2 Representations of the City. City hereby represents and warrants that all of the following are true and correct as of the Effective Date:

(a) The City has taken all requisite action in connection with the execution of this Lease and the undertaking of the obligations set forth in this Lease. This Lease constitutes the legally valid and binding obligation of the City, enforceable against the City in accordance with its terms, except as it may be affected by bankruptcy, insolvency or similar laws or by legal or equitable principles relating to or limiting the rights of contracting parties generally; and

(b) The execution of this Lease and the acceptance of the obligations set forth in this Lease do not violate any court order or ruling binding upon the City or any provision of any indenture, agreement or other instrument to which the City is a party or may be bound. Neither the entry into nor the performance of this Lease will violate, be in conflict with or constitute a default under any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, judgment, order or other agreement, charge, right or interest applicable to the City.

13.5 Miscellaneous.

13.5.1 Holding Over. Neither Tenant nor any of the Tenant's subtenants shall be entitled to any hold over rights. If Tenant or any subtenant remains in possession of the Premises after the expiration or termination of this Lease, without Landlord's consent, such Tenant and/or subtenant shall be deemed to be trespassing and Landlord shall have the right to seek such Tenant's or subtenant's immediate ejectment from the Premises in accordance with State law.

13.5.2 Binding on Successors and Assigns. Each provision of this Lease to be performed by Tenant shall be deemed both a covenant and a condition. The terms, conditions and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the Parties and their personal representatives, successors and assigns.

13.5.3 Notices. Whenever under this Lease a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered mail or certified United States mail, postage prepaid, addressed as set forth below, or to such other address as a Party may designate in writing for the purpose of receiving notices:

to Landlord at:
The City of Pittsburg
Attn: City Manager
65 Civic Avenue
Pittsburg, CA 94565
Phone: (925) 252-4850
Fax: (___) ___-_____

to Tenant at:
Pittsburg Arts and Community Foundation
Attn: Executive Director
65 Civic Avenue
Pittsburg, CA 94565
Phone: (925) 252-4850
Fax: (___) ___-_____

Such notice shall be deemed to be received within forty-eight (48) hours from the time of mailing, if mailed as provided for in this Section 13.5.3.

13.5.4 Waivers. No waiver by Landlord of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provisions.

13.5.5 Legal Effect. Although this Lease has attempted to express the rights and duties of the Parties in simple language understandable to a layman, Tenant understands that this Lease will be treated as a formal legal instrument and will be binding on all persons having any future dealings with the Premises. If more than one copy is signed, all copies will be equally effective. If more than one person is named as Tenant, Landlord may hold any such person legally responsible for all of the obligations of Tenant under this Lease.

13.5.6 No Third Party Beneficiaries. Nothing contained in this Lease is intended by the Parties, nor shall any provision of this Lease be deemed or construed by the Parties or by any third person, to be for the benefit of any third party, nor shall any third party have any right to enforce any provision of this Lease or be entitled to damages for any breach by the Parties of any of the provisions of this Lease.

13.5.7 Not Construed Against Drafter. No Party shall be deemed to be the drafter of this Lease, or of any particular provision or provisions, and no part of this Lease shall be construed against any Party on the basis that the particular Party is the drafter of any part of this Lease.

13.5.8 Non-Liability of Officials, Employees, and Agents. No member, official, employee or agent of Landlord or City shall be personally liable in the event of any default or breach hereunder by either Party.

13.5.9 Essence of Time. Time is of the essence for every provision, covenant and condition of this Lease.

13.5.10 Severability. The determination by a court of competent jurisdiction that a provision of this Lease is illegal or unenforceable shall not affect any other provision of this Lease.

13.5.11 Entire Agreement. This Lease contains all the agreements of the Parties and supersedes all prior negotiations. There have been no representations by Landlord or understandings made between Landlord and Tenant other than those set forth in this Lease.

13.5.12 Amendment. This Lease may only be modified or amended by a written instrument duly executed by the Parties.

13.5.13 Captions; Construction. The section headings and captions used in this Lease are solely for convenience and shall not be used to interpret this Lease. The Parties acknowledge that this Lease is the product of negotiation and compromise on the part of both Parties, and the Parties agree that since both Parties have participated in the negotiation and drafting of this Lease with the advice of counsel, this Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

13.5.14 Counterparts. This Lease may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

13.5.15 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

IN WITNESS WHEREOF, Tenant and City have entered into this Lease as of the Effective Date.

**LANDLORD:**
**CITY OF PITTSBURG**

By: _____

**TENANT:**
**PITTSBURG ARTS AND COMMUNITY FOUNDATION**

By: _____

ATTEST:

_____

APPROVED AS TO FORM AND LEGALITY:

_____
City Attorney

**CITY OF PITTSBURG**
**CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

**DATE:** November 15, 2021

**LOCATION:** Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

**CITY COUNCIL.AGENCY MEMBERS**
Marilyn Craft, Mayor/Chair
Holland Barrett White, Vice-Mayor/Chair
Shanelle Scales-Preston, Council/Agency Member
Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

**APPOINTED OFFICIALS**
Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the City Council for November 15, 2021 was conducted electronically for Closed Session and through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated electronically or through Zoom and were not physically present in the Council Chamber.

Mayor Craft called the Meeting of the City Council to order at 7:21 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA after convening in Closed Session at 5:30 P.M. for the following items:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Section 54956.8:

Property: Entrata Building at 985 Railroad Avenue: Negotiators for the Housing Authority: Garrett Evans, Maria Aliotti; Negotiating Parties: Gateway Mixed Use Development, a California Limited Partnership and Domus Development LLC, a California limited liability company; Under Negotiation: both price and terms of payment

2. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6:

Employee organizations: American Federation of State, County, and Municipal Employees Local 512 Management/Professional/Confidential Unit and Miscellaneous A Unit; Pittsburg Police Officers' Association; Pittsburg Police Managers Group; Teamsters Local 856; International Brotherhood of Electrical Workers Local 1295

Unrepresented employees: Management Group; Senior Executive Team

3.. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION, Initiation of litigation pursuant to Section 54956.9(d)(4)

Number of cases: two

There was no reportable action taken in Closed Session.

**ROLL CALL**

All Members were present.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**PROCLAMATION**

4. Homeless Awareness Month

**PRESENTATION**

5. Overview of Contra Costa County District Attorneys Office

**CITY MANAGER REPORTS/REMARKS**

City Manager Evans reported on COVID-19 management and upcoming City events.

**PUBLIC COMMENTS**

There were no public comments.

**COMMITTEE REPORTS**

There were no committee reports.

**CITY COUNCIL MEETING**

**PUBLIC HEARING**

10. Adoption of a City Council Resolution Authorizing the Submission of an Application for and Acceptance of the Permanent Local Housing Allocation Funds

Mayor Craft opened the Public Hearing. There being no one to speak to the item, Mayor Craft closed the Public Hearing.

On Motion by Member Scales-Preston, seconded by Vice-Mayor White to adopt and carried unanimously.

11. Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Approving the Home2Suites Hotel Project, AP-20-1536 (GP, RZ, UP, DR)

Mayor Craft opened the Public Hearing.

Wolfgang Croskey, Pittsburg, questioned traffic mitigation, the parcel overlay, the franchise agreement, housing vouchers, and purchasing locally.

There being no one to speak further to the item, Mayor Craft closed the Public Hearing.

On Motion by Vice-Mayor White, seconded by Mayor Craft to adopt the Resolution and Introduce and Waive First Reading of the Ordinance and carried unanimously.

12. Adoption of a City Council Resolution to Extend the Abandoned Vehicle Abatement Program and Associated Fee Subject to Voter Approval

Mayor Craft opened the Public Hearing. There being no one to speak to the item, Mayor Craft closed the Public Hearing.

On Motion by Member Scales-Preston, seconded by Member Banales to adopt and carried unanimously.

**CONSIDERATION**

13. By Minute Order, Select Commission Appointments to the Youth Advisory Commission

Prior to considering appointments it was determined three seats would be held in abeyance for applicants from the Junior High School level.

On Motion by Vice-Mayor White, seconded by Member Banales to appoint Balance Dollarhide-Watson and carried unanimously.

On Motion by Member Scales-Preston, seconded by Member White to appoint Gianna Payton and carried unanimously.

On Motion by Member Killings, seconded by Member Banales to appoint Michaela Aquino and carried unanimously.

On Motion by Member Scales-Preston, seconded by Vice-Mayor White to appoint Janiyah Joseph and carried unanimously.

On Motion by Member Scales-Preston, seconded by Vice-Mayor White to appoint Aafia Sammee and carried unanimously.

On Motion by Mayor Craft, seconded by Member Banales to appoint Alyssa Larson and carried unanimously.

On Motion by Member Killings, seconded by Member Scales-Preston to appoint Sosiua Vea and carried unanimously.

On Motion by Member Killings, seconded by Member Scales-Preston to appoint Aliya Mansur and carried unanimously.

On Motion by Member Killings, seconded by Member Scales-Preston to appoint Sonia Shephard and carried by the following vote:

AYES: Banales, Killings, Scales-Preston, White
NOES: Craft

On Motion by Vice-Mayor White, seconded by Member Scales-Preston to appoint Manisha Rattu and carried by the following vote:

AYES: Banales, Killings, Scales-Preston, White
NOES: Craft

On Motion by Mayor Craft, seconded by Member White to appoint Deyanel Maldonado and carried unanimously.

14. Adoption of a City Council Resolution Amending the Policies and Procedures for City Council

On Motion by Mayor Craft, seconded by Vice-Mayor White to adopt with the edit to the section on Council Request for Future Agenda Items and striking all but the first sentence of the second paragraph, and carried unanimously.

15. Adoption of a City Council Resolution Approving Commercial Cannabis Permit Operating Agreement Between the City and Shryne Pittsburg LLC

On Motion by Vice-Mayor White, seconded by Member Banales and carried by the following vote:

AYES: Banales, Scales-Preston, White, Craft
NOES: Killings

**CONFLICT OF INTEREST STATEMENT**

There were no conflicts of interest statements.

**COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY AND SOUTHWEST PITTSBURG GHAD II AND SUCCESSOR AGENCY CONSENT CALENDAR**

On Motion by Member Banales, seconded by Member Scales-Preston to adopt and carried unanimously.

16. Minutes of November 1, 2021

17. Adoption of a City Council Resolution Authorizing the Vacation of 343 square feet of Right-of-Way on West Leland Road

18. Receive and File the Treasurer's Report for the Quarter Ending September 30, 2021

19. Adoption of a City Council Resolution to Allocate Funds and Approve a Purchase Agreement for Storage and Seismic Safety Equipment for Project 3119, Police Evidence and Intake Room Improvements Project

20. Adoption of a City Council Resolution to Amend Staffing Allocation in the Police Department

21. Adoption of a City Council Resolution to Allocate Funds and Authorize Execution of the First Amendment to the On-Call Civil Engineer Consulting Services Agreement with MNS Engineers, Inc.

22. Adoption of a City Council Resolution Authorizing the City Manager to Execute a First Amendment to the Agreement with Brezack and Associates Planning for Contract Planning Services

23. Adoption of a City Council Resolution to Approve an Extension to the Freeway Security Network Project

24. Adoption of a City Council Resolution Approving a Contract with Government Finance Officers Association for Enterprise Resource Planning Advisory Services

25. Adoption of a City Council Resolution Approving a Consulting Services Agreement Between the City of Pittsburg and NHA Advisors LLC

## COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

There were no requests for future agenda items.

## COUNCIL MEMBER REMARKS

There were no Council Member remarks.

## ADJOURNMENT

The City Council adjourned at 9:49 P.M. to November 29, 2021.

Respectfully submitted,

Alice E. Evenson, City Clerk

**CITY OF PITTSBURG**
**HOUSING AUTHORITY MEETING MINUTES**

**DATE:** November 15, 2021

**LOCATION:** Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

**CITY COUNCIL.AGENCY MEMBERS**
Marilyn Craft, Mayor/Chair
Holland Barrett White, Vice-Mayor/Chair
Shanelle Scales-Preston, Council/Agency Member
Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

**APPOINTED OFFICIALS**
Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the City Council for November 15, 2021 was conducted electronically for Closed Session and through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated electronically or through Zoom and were not physically present in the Council Chamber.

**CALL TO ORDER**

Chair Craft called the meeting of the Housing Authority to order at 7:54 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, California.

**ROLL CALL**

All Members were present.

**CONSENT CALENDAR**

On motion by Member Banales, seconded by Vice-Chair White to adopt and carried unanimously.

6. Minutes of August 16, 2021, October 4, 2021, and November 1, 2021

7. Disbursement Lists of July 31, 2021, August 31, 2021 and September 30, 2021

8. Adoption of a Housing Authority Resolution Establishing an Interest-Bearing Money Market Account to Serve as Collateral for a Housing Authority Line of Credit.

9. Adoption of a Housing Authority Resolution Authorizing Execution of an Agreement Between the Housing Authority and Yardi Systems, Inc. for Procurement of a Voyager SaaS Select Software

## HOUSING AUTHORITY MEMBER REMARKS

Member Floyd thanked the District Attorney for her review of services and in particular the awareness of the cameras on Highway 4 and their impact.

Member Herring asked for information on the community court.

## ADJOURNMENT

The Housing Authority was adjourned at 7:57 P.M.

Respectfully submitted,

Alice E. Evenson, Secretary

**CITY OF PITTSBURG**
**CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

**DATE:** November 29, 2021

**LOCATION:** Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

**CITY COUNCIL.AGENCY MEMBERS**
Marilyn Craft, Mayor/Chair
Holland Barrett White, Vice-Mayor/Chair
Shanelle Scales-Preston, Council/Agency Member
Juan Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
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Mayo/Chair Craft called the Meeting of the City Council to order at 5:04 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA.

**ROLL CALL**

All Members were present.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**PUBLIC COMMENTS**

There were no public comments.

**CONSIDERATION**

1. Adoption of Resolutions Making Findings in Support of Continuing to Hold Public Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

On Motion by Mayor/Chair Craft, seconded by Vice-Mayor/Chair White to adopt the resolution with the following changes. The final paragraph of the resolution will read: be it further resolved that the City Council hereby approves meetings of the boards and subcommittees to be held by teleconference in compliance with California government code 54953e. Be it further resolved that the City Council and all Commissions shall meet in person and the public may attend in person so long as they are required to show proof of vaccination or negative test results 72 hours prior to the meeting; masks are required for all in attendance in person, social distance is required in the meeting room/Council Chamber and staff is required to monitor the CDC and County Health dashboard.

Mayor/Chair Craft withdrew the Motion.

On Motion by Vice-Mayor White, seconded by Member Scales-Preston to keep business as usual with virtual meetings and Motion failed with the following vote:

AYES: Scales-Preston, White
NOES: Banales, Killings
ABSTAIN: Craft

On Motion by Mayor Craft, seconded by Member Banales to adopt the resolution with the following changes. Meetings of the City Council and Commissions shall be in person except that members of the public would attend by teleconference and carried unanimously.

On Motion by Mayor Craft, seconded by Member Banales to adopt the resolutions of the Governing Boards with the following changes. Meetings of the City Council and Commissions shall be in person except that members of the public would attend by teleconference and carried unanimously.

The City Council recessed at 5:52 P.M.

The City Council adjourned at 6:02 P.M. to a Joint Workshop with the Planning Commission for Envision Pittsburg General Plan Update Land Use Alternatives.

## ADJOURNMENT

The Workshop adjourned at 8:00 P.M. to December 6, 2021.

Respectfully submitted,

Alice E. Evenson, City Clerk

**CITY OF PITTSBURG**
**CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

**DATE:** December 6, 2021

**LOCATION:** Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

**CITY COUNCIL.AGENCY MEMBERS**
Marilyn Craft, Mayor/Chair
Holland Barrett White, Vice-Mayor/Chair
Shanelle Scales-Preston, Council/Agency Member
Juan Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

**APPOINTED OFFICIALS**
Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the City Council for December 6, 2021 was conducted through Zoom for the public, with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open to the public for the meeting. Council Members participated in person in the Council Chamber.

Mayo/Chair Craft called the Meeting of the City Council to order at 5:00 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA.

**ROLL CALL**

All Members were present.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**PUBLIC COMMENTS**

There were no public comments.

## CITY COUNCIL REORGANIZATION

## REMARKS AND RECOGNITION OF OUTGOING MAYOR/CHAIR AND VICE-MAYOR/CHAIR

1. Remarks from Outgoing Mayor

2. Presentations/Comments For Outgoing Mayor

3. Selection of Mayor/Chair

   On Motion by Mayor Craft, seconded by Member Scales-Preston to appoint Vice Mayor White as Mayor for 2022 and carried unanimously.

4. Selection of Vice-Mayor/Chair

   On Motion by Mayor White and seconded by Member Banales to appoint Member Scales-Preston as Vice Mayor/Chair for 2022 and carried unanimously.

5. Remarks from New Vice-Mayor/Chair

6. Remarks from New Mayor/Chair

7. Presentations/Comments

## ADJOURNMENT

The Meeting was adjourned at 5:31 P.M. to December 20, 2021.

Respectfully submitted,

Alice E. Evenson, City Clerk

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Chair and Governing Board Members

**FROM:** Garrett Evans, Executive Director

**SUBJECT:** Adoption of a Successor Agency Resolution Declaring 610 Railroad Avenue (APN 085-390-077) as Surplus Land

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

The Successor Agency for the Redevelopment Agency of the City of Pittsburg (Successor Agency) is declaring 610 Railroad Avenue (APN 085-390-077) (Property) as surplus land, and making it available to parties who may be interested in acquiring and developing the Property.

## FISCAL IMPACT

Declaring the Property as surplus land has no fiscal impact to the Successor Agency's fund balance or the City's General Fund.

## RECOMMENDATION

Successor Agency Board adopt the Resolution declaring the Property as surplus land.

## BACKGROUND

The Redevelopment Agency of the City of Pittsburg (Agency) assisted with the funding to complete the construction of the Vidrio project which consisted of 75 residential units and 10,0000 square feet of commercial space. While the residential units were sold to individual property owners, the commercial space, with the address of 610 Railroad Avenue, was retained by the Agency to manage and spur interest in Pittsburg's downtown.

On February 7, 2011, Agency Resolution 11-1442 and Pittsburg Arts and Community Foundation (PACF) Resolution 11-024 approved a master lease agreement between the Agency and PACF, whereby PACF will lease the Property from the Agency for $1 annually. The master lease expires December 31, 2021. PACF, a non-profit, works to improve the quality of life in Pittsburg through support of literacy, art, and performing arts. There are four businesses currently operating within the Property: CreAsian Bistro, Railroad Book Depot, Big Chop Accessories, and AIM Suits. PACF programs revenue generated by the Property

to pay for PACF's activities such as performing arts camp for the youth, various literacy programs, and art classes and programs.

On June 29, 2011, the Governor signed into law AB 26x1, also referred to as the "Dissolution Act" which automatically suspended redevelopment activities and on December 29, 2011, the California State Supreme Court upheld the provisions of the Dissolution Act, thereby dissolving all redevelopment agencies on February 1, 2012. On June 27, 2012, the Governor signed into law budget trailer bill AB 1484. AB 1484 further clarified the Dissolution Act which included the process in which properties are to be disposed by the former redevelopment agencies.

California Health & Safety Code Section 34191.5 requires a successor agency to prepare a long-range property management plan (LRPMP) that addresses the disposition and use of the real properties of the former redevelopment agency. The Successor Agency's LRPMP was approved by the California State Department of Finance (DOF) on December 12, 2014, and then was later amended and approved by the DOF on December 31, 2015.

## SUBCOMMITTEE FINDINGS

The declaration of the Property as surplus land was not discussed in a subcommittee.

## STAFF ANALYSIS

The Surplus Land Act at California Government Code Section 54221, defines surplus land as "…land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use…" The Property is the last property on the Successor Agency's LRPMP. The 2019 amendment of the Surplus Land Act at California Government now requires Successor Agency disposing of land listed on its LRPMP to declare the land as surplus land before disposing of property listed.

ATTACHMENTS: Resolution

Report Prepared By: Maria Aliotti, Deputy City Manager

BEFORE THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY
OF THE CITY OF PITTSBURG

In the Matter of:

Declaring Property at 610 Railroad Avenue ) RESOLUTION NO. 21-
Avenue (APN 085-390-077) as Surplus Land )

WHEREAS, the former Redevelopment Agency of the City of Pittsburg (Agency) assisted with the funding to complete the construction of the Vidrio project which consisted of 75 residential units and 10,0000 square feet of commercial space. While the residential units were sold to individual property owners, the commercial space, with the address of 610 Railroad Avenue (APN 085-390-077) (Property), was retained by the Agency to manage and spur interest in Pittsburg's downtown; and

WHEREAS, on February 7, 2011, Agency Resolution 11-1442 and Pittsburg Arts and Community Foundation (PACF) Resolution 11-024 approved a master lease agreement between the Agency and PACF, pursuant to which PACF leased the Property from the Agency for $1 annually. The master lease agreement with PACF expires on December 31, 2021; and

WHEREAS, PACF, a non-profit, works to improve the quality of life in Pittsburg through support of literacy, art, and performing arts; and

WHERES, the Property has been partitioned by PACF, and four business are currently operating thereon: CreAsian Bistro, Railroad Book Depot, Big Chop Accessories, and AIM Suits. PACF uses the rental revenue generated from these subtenant businesses to pay for such things as performing arts camp for the youth, various literacy programs, and art classes and programs; and

WHEREAS, the Property is the last property on the Successor Agency's Long-Range Property Management Plan (LRPMP). The 2019 amendment of the Surplus Land Act at California Government Code Section 54220 et seq. (the "Act") now requires a successor agency disposing of property listed on its LRPMP to declare the property as surplus land before disposing of the listed property.

NOW, THEREFORE BE IT RESOLVED that the Governing Board of the Successor Agency for the Redevelopment Agency of the City of Pittsburg hereby:

1. Declares the Property is surplus land and not necessary for the Successor Agency's use.

2. Authorizes and directs the Agency Secretary or her designee to send a notice of availability to the entities designated in Government Code Section 54222 ("Designated Entities") by electronic mail, or by certified mail.

3. Requires that any proposed agreement for the sale of the Property shall be subject to the approval of the Governing Board.

4. Finds the sale of the Property as surplus is exempt from environmental review under the California Environmental Quality Act (" CEQA") pursuant to CEQA Guidelines section 15312 (Surplus Government Property Sales). However, if development is proposed on the Property by a subsequent buyer, then that development would be reviewed under CEQA.

5. Authorizes Successor Agency staff to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution, and any such actions previously taken are hereby ratified and confirmed. Such actions include negotiating in good faith in accordance with the requirements of the Act with any of the Designated Entities that submit a written notice of interest to purchase or lease the Property in compliance with the Act.

PASSED AND ADOPTED by the Governing Board of the Successor Agency for the Redevelopment Agency of the City of Pittsburg at a regular meeting on the 20th day of December 2021 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Chair

ATTEST:

_____
Alice E. Evenson, Agency Secretary

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution to Amend the Master Pay Schedule as Required by California Public Employees' Retirement System

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

To comply with CalPERS' interpretation of the requirements of California Code of Regulations, Title 2, Section 570.5 by amending the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule. The single master pay schedule will be submitted to the City Council for approval each time any single MOU or compensation plan is brought to the City Council for approval.

## FISCAL IMPACT

The amendment of previously approved separate pay schedules as a single master pay schedule has no fiscal impact to the City for preparation or distribution, as the actions already occurred.

## RECOMMENDATION

The City Council adopt a resolution to amend the City of Pittsburg's master pay schedule for all employee classifications, so the City is in compliance with the requirements of the California Code of Regulations, Title 2, Section 570.5 and the California Public Employees' Retirement System (CalPERS) relating to publicly available pay schedules for purposes of determining the amount of "compensation earnable" pursuant to Government Code Sections 20630, 20636, and 20636.1.

## BACKGROUND

CalPERS, pursuant to their interpretation of California Code of Regulations, Title 2, Section 570.5, recommends all CalPERS employers to maintain their compensation levels in one publicly available document, approved and adopted by the governing body, which must meet all of the following requirements:

• Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
• Identifies the position title for every employee position;
• Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
• Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
• Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
• Indicates an effective date and date of any revisions;
• Is retained by the employer and available for public inspection for not less than five years; and
• Does not reference another document in lieu of disclosing the pay rate.

**SUBCOMMITTEE FINDINGS**

This item was not reviewed by a subcommittee.

**STAFF ANALYSIS**

The updates to master pay schedule reflect salary adjustments approved by the City Council on November 1, 2021, for members of the Police Officers' Association (POA), Senior Executive Team and Management Group. In addition, the seasonal Police Officer Trainee salary step was adjusted because the hourly rate is 20% less than Police Officer Step A.

The adoption of the resolution will comply with CalPERS' interpretation of the requirements of Code of Regulations section 570.5 by amending the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule.

ATTACHMENTS:

Resolution
Pay Schedule

Report Prepared By: Griselda Clift, Senior Human Resources Analyst

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Amending the Master Pay Schedule to Include Previously Approved Positions and Compensation | ) ) ) | RESOLUTION NO. 21- |

WHEREAS, the California Public Employees' Retirement System (CalPERS) has requested all CalPERS employers list their compensation levels on one document, approved and adopted by the governing body, in accordance with Title 2 California Code of Regulations section 570.5, and meeting all of the following requirements thereof:

- Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- Identifies the position title for every employee position;
- Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicates an effective date and date of any revisions;
- Is retained by the employer and available for public inspection for not less than five years; and
- Does not reference another document in lieu of disclosing the pay rate; and

WHEREAS, the City now desires to amend the master pay schedule to include previously approved compensation levels for all bargaining groups and all compensation plans of the City of Pittsburg.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby amends the master pay schedule as shown in the attached salary schedule.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

***DRAFT***



| CLASSIFICATION | RANGE | EFFECTIVE | STEP A | STEP B | STEP C | STEP D | STEP E | STEP F | STEP G | *Max/w all incentives | UNIT |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Account Clerk (Part 1 of 2) | 109 | 07/11/21 | 3,811 | 4,002 | 4,202 | 4,412 | 4,633 | | | 4,683 | AFSCME |
| Account Clerk (Part 2 of 2) | 170 | 07/11/21 | 4,372 | 4,591 | 4,821 | 5,062 | 5,315 | | | 5,365 | AFSCME |
| Accountant I | 350 | 07/11/21 | 5,779 | 6,068 | 6,371 | 6,690 | 7,025 | | | 7,075 | MPC |
| Accountant II | 500 | 07/11/21 | 6,470 | 6,793 | 7,133 | 7,490 | 7,864 | | | 7,914 | MPC |
| Accounting Technician | 220 | 07/11/21 | 5,106 | 5,361 | 5,629 | 5,910 | 6,206 | | | 6,256 | AFSCME/MPC |
| Administrative Analyst I | 390 | 07/11/21 | 5,971 | 6,270 | 6,583 | 6,912 | 7,258 | | | 7,308 | MPC |
| Administrative Analyst II | 700 | 07/11/21 | 6,914 | 7,260 | 7,623 | 8,004 | 8,404 | | | 8,454 | MPC |
| Administrative Assistant (Part 1 of 2) | 100 | 07/11/21 | 3,805 | 3,995 | 4,195 | 4,405 | 4,625 | | | 4,675 | AFSCME |
| Administrative Assistant (Part 2 of 2) | 160 | 07/11/21 | 4,406 | 4,626 | 4,857 | 5,100 | 5,355 | | | 5,405 | AFSCME/MPC |
| Administrative Officer | 860 | 07/11/21 | 9,367 | 9,835 | 10,327 | 10,843 | 11,385 | | | 11,435 | MPC |
| Administrative Coordinator | 350 | 07/11/21 | 5,779 | 6,068 | 6,371 | 6,690 | 7,025 | | | 7,075 | MPC |
| Administrative Specialist | 290 | 07/11/21 | 5,457 | 5,730 | 6,017 | 6,318 | 6,634 | | | 6,684 | MPC |
| Assistant City Clerk | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Assistant City Engineer | 920a | 07/11/21 | 10,530 | 11,056 | 11,609 | 12,189 | 12,798 | | | 12,848 | MPC |
| Assistant Director of Economic Dev & Recreation | 887 | 07/11/21 | 10,968 | | | | 13,329 | | | 13,329 | Mgmt Group |
| Assistant Director of Finance | 887 | 07/11/21 | 10,968 | | | | 13,329 | | | 13,329 | Mgmt Group |
| Assistant Director of Planning | 887 | 07/11/21 | 10,968 | | | | 13,329 | | | 13,995 | Mgmt Group |
| Assistant Director of Public Works | 895 | 07/11/21 | 11,475 | 12,049 | 12,651 | 13,284 | 13,948 | | | 13,998 | MPC |
| Assistant Engineer | 510 | 07/11/21 | 6,657 | 6,990 | 7,339 | 7,706 | 8,091 | | | 8,546 | MPC |
| Assistant Planner | 450 | 07/11/21 | 6,368 | 6,686 | 7,020 | 7,371 | 7,740 | | | 8,177 | MPC |
| Assistant to the City Manager | 835 | 07/11/21 | 10,535 | | | | 12,804 | | | 12,804 | Mgmt Group |
| Associate Engineer | 780 | 07/11/21 | 7,708 | 8,093 | 8,498 | 8,923 | 9,369 | | | 9,887 | MPC |
| Associate Planner | 740 | 07/11/21 | 7,371 | 7,740 | 8,127 | 8,533 | 8,960 | | | 9,458 | MPC |
| Building Inspection Supervisor | 810 | 07/11/21 | 8,975 | 9,424 | 9,895 | 10,390 | 10,909 | | | 10,959 | MPC |
| Business License Coordinator | 315 | 07/11/21 | 5,637 | 5,919 | 6,215 | 6,526 | 6,852 | | | 6,902 | AFSCME |
| Chief Building Official | 895 | 07/11/21 | 11,475 | 12,049 | 12,651 | 13,284 | 13,948 | | | 13,998 | MPC |
| Chief of Police | 955 | 07/11/21 | 15,398 | | | | 19,466 | | | 22,873 | Sr. Exec Team |
| City Attorney | 943 | 09/20/21 | | | | | 20,240 | | | 20,240 | Contract |
| City Clerk | | | | | | | 470 | | | 470 | Elected Official |
| City Council | | | | | | | 500 | | | 500 | Elected Official |
| City Council -- member of a different governing board | | | | | | | | | | | |
| if serving on Tri Delta Transit | | $100 per meeting | | visit www.TriDeltaTransit.com | | | | | | | |
| if serving on Delta Diablo Sanitation District | | $209 per meeting | | visit ddsd.org | | | | | | | |
| City Engineer | 9352 | 07/11/21 | 11,741 | | | | 14,271 | | | 14,271 | Mgmt Group |
| City Manager | 960 | 02/05/20 | | | | | 20,962 | | | 20,962 | Contract |
| City Treasurer | | | | | | | 470 | | | 470 | Elected Official |
| Code Enforcement Officer I | 258 | 07/11/21 | 5,313 | 5,579 | 5,858 | 6,151 | 6,459 | | | 6,509 | AFSCME |
| Code Enforcement Officer II | 415 | 07/11/21 | 6,150 | 6,458 | 6,781 | 7,120 | 7,476 | | | 7,526 | AFSCME |
| Code Enforcement Supervisor | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Combination Building Inspector | 520 | 07/11/21 | 6,684 | 7,018 | 7,369 | 7,737 | 8,124 | | | 8,174 | AFSCME |
| Community Outreach Coordinator | 315 | 07/11/21 | 5,637 | 5,919 | 6,215 | 6,526 | 6,852 | | | 6,902 | AFSCME |
| Community Relations Manager | 700 | 07/11/21 | 6,914 | 7,260 | 7,623 | 8,004 | 8,404 | | | 8,454 | MPC |
| Community Services Specialist | 258 | 07/11/21 | 5,313 | 5,579 | 5,858 | 6,151 | 6,459 | | | 6,509 | AFSCME |
| Compliance Principal | 830 | 07/11/21 | 8,467 | 8,890 | 9,335 | 9,802 | 10,292 | | | 10,857 | MPC |
| Contract Analyst | 390 | 07/11/21 | 5,971 | 6,270 | 6,583 | 6,912 | 7,258 | | | 7,308 | MPC |
| Crime Analyst | 700 | 07/11/21 | 6,914 | 7,260 | 7,623 | 8,004 | 8,404 | | | 8,454 | MPC |

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.



Revised Council Approved: 7/19/2021; 10/4/2021; PENDING APPROVAL 12/20/21

***DRAFT***



| CLASSIFICATION | RANGE | EFFECTIVE | STEP A | STEP B | STEP C | STEP D | STEP E | STEP F | STEP G | *Max/w all incentives | UNIT |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Customer Service Representative | 95a | 07/11/21 | 3,456 | 3,629 | 3,810 | 4,001 | 4,201 | | | 4,251 | AFSCME |
| Deputy City Clerk | 330 | 07/11/21 | 5,730 | 6,017 | 6,318 | 6,634 | 6,966 | | | 7,016 | MPC |
| Deputy City Manager | 9501 | 07/11/21 | 15,113 | | | | 19,285 | | | 19,285 | Sr. Exec Team |
| Development Manager | 890 | 07/11/21 | 10,530 | 11,056 | 11,609 | 12,189 | 12,798 | | | 12,848 | MPC |
| Director of Community & Economic Development | 9403 | 07/11/21 | 12,923 | | | | 16,334 | | | 16,334 | Sr. Exec Team |
| Director of Community Services | 9402 | 07/11/21 | 12,923 | | | | 16,334 | | | 16,334 | Sr. Exec Team |
| Director of Finance | 9401 | 07/11/21 | 12,923 | | | | 16,334 | | | 16,334 | Sr. Exec Team |
| Director of Human Resources | 9400 | 07/11/21 | 12,923 | | | | 16,334 | | | 16,334 | Sr. Exec Team |
| Director of Public Works | 945 | 07/11/21 | 13,965 | | | | 16,976 | | | 16,976 | Sr. Exec Team |
| Director of Records and Council Services | 8351 | 07/11/21 | 10,535 | | | | 12,804 | | | 12,804 | Sr. Exec Team |
| Director of Recreation and Maint. Services | 9201 | 07/11/21 | 11,741 | | | | 14,271 | | | 14,271 | Mgmt Group |
| Director of Water Utilities | 9350 | 07/11/21 | 13,440 | | | | 16,334 | | | 16,334 | Mgmt Group |
| Economic Development Manager | 860 | 07/11/21 | 9,367 | 9,835 | 10,327 | 10,843 | 11,385 | | | 11,435 | MPC |
| Electrical Technician | 420 | 07/01/18 | 6,011 | 6,312 | 6,628 | 6,959 | 7,307 | | | 7,892 | Teamsters |
| Electrical Apprentice | 200 | 07/01/18 | 4,801 | 5,041 | 5,293 | 5,558 | 5,836 | | | 6,303 | Teamsters |
| Engineering Analyst | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Engineering Technician I | 310 | 07/11/21 | 5,579 | 5,858 | 6,151 | 6,459 | 6,782 | | | 6,832 | AFSCME |
| Engineering Technician II | 460 | 07/11/21 | 6,462 | 6,785 | 7,124 | 7,480 | 7,854 | | | 7,904 | AFSCME |
| Environmental Affairs Manager | 890 | 07/11/21 | 10,530 | 11,056 | 11,609 | 12,189 | 12,798 | | | 12,848 | MPC |
| Environmental Health Specialist I | 390 | 07/11/21 | 5,971 | 6,270 | 6,583 | 6,912 | 7,258 | | | 7,308 | MPC |
| Environmental Health Specialist II | 700 | 07/11/21 | 6,914 | 7,260 | 7,623 | 8,004 | 8,404 | | | 8,454 | MPC |
| Equipment Mechanic | 270 | 07/01/18 | 5,310 | 5,576 | 5,855 | 6,148 | 6,455 | | | 6,971 | Teamsters |
| Equipment Shop Supervisor | 530 | 07/11/21 | 6,767 | 7,105 | 7,460 | 7,833 | 8,225 | | | 8,275 | MPC |
| Executive Assistant | 400 | 07/11/21 | 6,168 | | | | 7,497 | | | 7,497 | Mgmt Group |
| Executive Assistant to the Chief of Police | 330 | 07/11/21 | 5,730 | 6,017 | 6,318 | 6,634 | 6,966 | | | 7,016 | MPC |
| Finance Division Manager | 855 | 07/11/21 | 9,210 | 9,670 | 10,153 | 10,661 | 11,194 | | | 11,244 | MPC |
| Financial Analyst | 580 | 07/11/21 | 7,260 | 7,623 | 8,004 | 8,404 | 8,824 | | | 8,874 | MPC |
| Geographical Information Systems (GIS) Analyst | 760 | 07/11/21 | 7,511 | 7,887 | 8,281 | 8,695 | 9,130 | | | 9,180 | MPC |
| Harbormaster | 830 | 07/11/21 | 8,467 | 8,890 | 9,335 | 9,802 | 10,292 | | | 10,342 | MPC |
| Housing Inspector | 315 | 07/11/21 | 5,637 | 5,919 | 6,215 | 6,526 | 6,852 | | | 6,902 | AFSCME |
| Housing Manager | 855 | 07/11/21 | 9,210 | 9,670 | 10,153 | 10,661 | 11,194 | | | 11,244 | MPC |
| Housing Program Analyst I | 390 | 07/11/21 | 5,971 | 6,270 | 6,583 | 6,912 | 7,258 | | | 7,308 | MPC |
| Housing Program Analyst II | 700 | 07/11/21 | 6,914 | 7,260 | 7,623 | 8,004 | 8,404 | | | 8,454 | MPC |
| Housing Specialist | 210 | 07/11/21 | 5,020 | 5,271 | 5,535 | 5,812 | 6,103 | | | 6,153 | AFSCME |
| Human Resources Analyst | 700 | 07/11/21 | 6,914 | 7,260 | 7,623 | 8,004 | 8,404 | | | 8,454 | MPC |
| Human Resources Manager | 890a | 07/11/21 | 10,535 | | | | 12,804 | | | 12,804 | Mgmt Group |
| Human Resources Specialist | 330 | 07/11/21 | 5,730 | 6,017 | 6,318 | 6,634 | 6,966 | | | 7,016 | MPC |
| Information Technology Analyst I | 420a | 07/11/21 | 6,162 | 6,470 | 6,793 | 7,133 | 7,490 | | | 7,540 | MPC |
| Information Technology Analyst II | 720 | 07/11/21 | 7,212 | 7,573 | 7,952 | 8,350 | 8,767 | | | 8,817 | MPC |
| Information Technology Manager | 855 | 07/11/21 | 9,210 | 9,670 | 10,153 | 10,661 | 11,194 | | | 11,244 | MPC |
| Lead Community Services Specialist | 415 | 07/11/21 | 6,150 | 6,458 | 6,781 | 7,120 | 7,476 | | | 7,526 | AFSCME |
| Lead Electrical Technician | 705 | 08/19/19 | 6,959 | 7,307 | 7,672 | 8,056 | 8,459 | | | 9,136 | Teamsters |
| Lead Marina Services Worker | 320 | 07/01/18 | 5,558 | 5,836 | 6,128 | 6,434 | 6,756 | | | 7,094 | Teamsters |
| Lead Police Records Clerk | 255 | 07/11/21 | 5,355 | 5,623 | 5,904 | 6,199 | 6,509 | | | 6,559 | AFSCME |
| Lead Public Works Superintendent | 885 | 07/11/21 | 10,951 | 11,499 | 12,074 | 12,678 | 13,312 | | | 13,362 | MPC |
| Maintenance Assistant | 95 | 07/01/18 | 3,372 | 3,541 | 3,718 | 3,904 | 4,099 | | | 4,304 | Teamsters |

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.

| CLASSIFICATION | RANGE | EFFECTIVE | STEP A | STEP B | STEP C | STEP D | STEP E | STEP F | STEP G | *Max/w all incentives | UNIT |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Maintenance Ld Worker - Env. Services/Fac. Util. | 320 | 07/01/18 | 5,558 | 5,836 | 6,128 | 6,434 | 6,756 | | | 7,296 | Teamsters |
| Maintenance Worker I - Env. Services/Fac. Util. | 140 | 07/01/18 | 4,148 | 4,355 | 4,573 | 4,802 | 5,042 | | | 5,445 | Teamsters |
| Maintenance Worker II - Env. Services/Fac. Util. | 200 | 07/01/18 | 4,801 | 5,041 | 5,293 | 5,558 | 5,836 | | | 6,303 | Teamsters |
| Office Assistant | 095a | 07/11/21 | 3,456 | 3,629 | 3,810 | 4,001 | 4,201 | | | 4,251 | AFSCME |
| Payroll Specialist | 330 | 07/11/21 | 5,730 | 6,017 | 6,318 | 6,634 | 6,966 | | | 7,016 | MPC |
| Permit Center Supervisor | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Permit Technician | 260 | 07/11/21 | 5,385 | 5,654 | 5,937 | 6,234 | 6,546 | | | 6,596 | AFSCME |
| Pest Control Specialist | 470 | 07/01/18 | 6,243 | 6,555 | 6,883 | 7,227 | 7,588 | | | 7,967 | Teamsters |
| Planning Manager | 890 | 07/11/21 | 10,530 | 11,056 | 11,609 | 12,189 | 12,798 | | | 12,848 | MPC |
| Planning Technician | 260 | 07/11/21 | 5,385 | 5,654 | 5,937 | 6,234 | 6,546 | | | 6,596 | AFSCME |
| Police Captain | 650 | 07/14/19 | 12,730 | 13,366 | 14,034 | 14,736 | 15,473 | 16,247 | | 20,552 | PMG |
| Police Evidence Technician I | 260 | 07/11/21 | 5,385 | 5,654 | 5,937 | 6,234 | 6,546 | | | 6,596 | AFSCME |
| Police Evidence Technician II | 425 | 07/11/21 | 6,234 | 6,546 | 6,873 | 7,217 | 7,578 | | | 7,628 | AFSCME |
| Police Lieutenant | 640 | 07/14/19 | 11,097 | 11,652 | 12,235 | 12,847 | 13,489 | 14,163 | | 17,916 | PMG |
| Police Officer | 600 | 07/11/21 | 6,205 | 6,515 | 6,841 | 7,183 | 7,542 | 7,919 | 8,315 | | POA |
| Police Officer (Continuation of Steps H & I) | | | | | | | | 8,731 | 9,168 | 13,431 | POA |
| Police Records Clerk (Part 1 of 2) | 110 | 07/11/21 | 3,996 | 4,196 | 4,406 | 4,626 | 4,857 | | | 4,907 | AFSCME |
| Police Records Clerk (Part 2 of 2) | 180 | 07/11/21 | 4,625 | 4,856 | 5,099 | 5,354 | 5,622 | | | 5,672 | AFSCME |
| Police Records Supervisor | 540 | 07/11/21 | 6,754 | 7,092 | 7,447 | 7,819 | 8,210 | | | 8,260 | MPC |
| Police Sergeant | 625 | 07/11/21 | 8,813 | 9,254 | 9,717 | 10,203 | 10,713 | 11,249 | | 16,480 | POA |
| Police Services Administrator | 830 | 07/11/21 | 8,467 | 8,890 | 9,335 | 9,802 | 10,292 | | | 10,342 | MPC |
| Power Company Manager | 920 | 07/11/21 | 11,741 | | | | 14,271 | | | 14,271 | Mgmt Group |
| Property and Evidence Coordinator | 410 | 07/11/21 | 6,149 | 6,456 | 6,779 | 7,118 | 7,474 | | | 7,524 | AFSCME |
| Public Works Superintendent | 880 | 07/11/21 | 9,460 | 9,933 | 10,430 | 10,951 | 11,499 | | | 11,549 | MPC |
| Public Works Supervisor | 530 | 07/11/21 | 6,767 | 7,105 | 7,460 | 7,833 | 8,225 | | | 8,275 | MPC |
| Purchasing Analyst | 720 | 07/11/21 | 7,212 | 7,573 | 7,952 | 8,350 | 8,767 | | | 8,817 | MPC |
| Records Specialist | 330 | 07/11/21 | 5,730 | 6,017 | 6,318 | 6,634 | 6,966 | | | 7,016 | AFSCME |
| Recreation Coordinator | 230 | 07/11/21 | 5,182 | 5,441 | 5,713 | 5,999 | 6,299 | | | 6,349 | AFSCME |
| Recreation Supervisor | 550 | 07/11/21 | 6,769 | 7,107 | 7,462 | 7,835 | 8,227 | | | 8,277 | MPC |
| Redevelopment Project Manager | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Revenue Operations Supervisor | 745 | 07/11/21 | 7,419 | 7,790 | 8,180 | 8,589 | 9,018 | | | 9,068 | MPC |
| Senior Administrative Analyst | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Senior Civil Engineer | 860 | 07/11/21 | 9,367 | 9,835 | 10,327 | 10,843 | 11,385 | | | 11,435 | MPC |
| Senior Combination Building Inspector | 760 | 07/11/21 | 7,511 | 7,887 | 8,281 | 8,695 | 9,130 | | | 9,180 | MPC |
| Senior Financial Analyst | 790 | 07/11/21 | 8,406 | 8,826 | 9,267 | 9,730 | 10,216 | | | 10,266 | MPC |
| Senior Housing Program Analyst | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Senior Human Resources Analyst | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Senior Information Technology Analyst | 820 | 07/11/21 | 8,004 | 8,404 | 8,824 | 9,265 | 9,728 | | | 9,778 | MPC |
| Senior Planner | 840 | 07/11/21 | 8,534 | 8,961 | 9,409 | 9,879 | 10,373 | | | 10,942 | MPC |
| Senior Redevelopment Project Manager | 860 | 07/11/21 | 9,367 | 9,835 | 10,327 | 10,843 | 11,385 | | | 11,435 | MPC |
| Sweeper Operator | 140 | 07/01/18 | 4,148 | 4,355 | 4,573 | 4,802 | 5,042 | | | 5,294 | Teamsters |
| Utility Lineworker | 742 | 07/11/21 | 7,323 | 7,689 | 8,073 | 8,477 | 8,901 | | | 9346 | IBEW |
| Utility Maintenance Worker (Electric/Gas) | 312 | 07/11/21 | 5,578 | 5,857 | 6,150 | 6,458 | 6,781 | | | 7,120 | IBEW |
| Utility Supervisor | 810 | 07/11/21 | 8,975 | 9,424 | 9,895 | 10,390 | 10,909 | | | 10959 | MPC |
| Utility Technician - (Electric/Gas) | 863 | 07/11/21 | 9,305 | 9,770 | 10,258 | 10,771 | 11,310 | | | 11,876 | IBEW |
| Water Instrument/Maintenance Technician I | 480 | 07/01/18 | 7,040 | 7,392 | 7,762 | 8,150 | 8,558 | | | 8,986 | Teamsters |

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.

| CLASSIFICATION | RANGE | EFFECTIVE | STEP A | STEP B | STEP C | STEP D | STEP E | STEP F | STEP G | *Max/w all incentives | UNIT |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Water Instrument/Maintenance Technician II | 750 | 07/01/18 | 8,150 | 8,557 | 8,985 | 9,434 | 9,906 | | | 10,401 | Teamsters |
| Water Maintenance Mechanic I | 480 | 07/01/18 | 7,040 | 7,392 | 7,762 | 8,150 | 8,558 | | | 8,986 | Teamsters |
| Water Maintenance Mechanic II | 750 | 07/01/18 | 8,150 | 8,557 | 8,985 | 9,434 | 9,906 | | | 10,401 | Teamsters |
| Water Plant Apprentice Operator | 200 | 07/01/18 | 4,801 | 5,041 | 5,293 | 5,558 | 5,836 | | | 6,128 | Teamsters |
| Water Plant Operator | 560 | 07/01/18 | 7,071 | 7,425 | 7,796 | 8,186 | 8,595 | | | 9,755 | Teamsters |
| Water Plant Superintendent | 883 | 07/11/21 | 10,430 | 10,952 | 11,500 | 12,075 | 12,679 | | | 13,129 | MPC |
| Water Plant Supervisor | 810 | 07/11/21 | 8,975 | 9,424 | 9,895 | 10,390 | 10,909 | | | 11,996 | MPC |
| Water Quality Analyst I | 380 | 07/01/18 | 6,198 | 6,508 | 6,833 | 7,175 | 7,534 | | | 8,371 | Teamsters |
| Water Quality Analyst II | 710 | 07/01/18 | 7,462 | 7,835 | 8,227 | 8,638 | 9,070 | | | 9,984 | Teamsters |

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.



Revised Council Approved: 7/19/2021; 10/4/2021; PENDING APPROVAL 12/20/21

| CLASSIFICATION | RANGE | EFFECTIVE | STEP A | STEP B | STEP C | STEP D | STEP E | STEP F | STEP G | *Max/w all incentives | UNIT |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **HOURLY / SEASONAL CLASSIFICATIONS** | | | **Step A** | **Step B** | **Step C** | **Step D** | **Step E** | **Step F** | **Step G** | **Step H/ I** | **Step J/K** |
| Expert Consultant | 0910 | 03/16/15 | 30.00 | | | | 100.00 | | | | |
| High School Intern | 0550 | 12/26/21 | | | | | 15.00 | | | | |
| Intern (college-level) | 0510 | 01/01/20 | | | 16.00 | | 17.50 | | 19.00 | | |
| Maintenance Aide | 0530 | 12/26/21 | 15.00 | 15.25 | 16.06 | 16.92 | 17.82 | 18.76 | 19.76 | 20.81(H) 21.92 (I) | 22.69 (J) 23.46 (K) |
| Maintenance Helper | 0520 | 12/26/21 | | | | | 15.00 | | | | |
| Police Officer Trainee | 6009 | 07/11/21 | 29.83 | 20% less than Police Officer Step A | | | | | | | |
| Recreation Leader I | 0550 | 12/26/21 | | | | | 15.00 | | | | |
| Recreation Leader II | 0560 | 12/26/21 | 15.50 | 16.00 | 16.50 | 17.00 | 17.50 | 18.00 | | | |
| Recreation Leader III | 0570 | 12/26/21 | 16.00 | 16.50 | 17.00 | 17.50 | 18.00 | 18.50 | 19.00 | 19.50 (H) 20.00 (I) | 20.50 (J) 21.00 (K) |
| **HOURLY / SEASONAL CLASSIFICATIONS ARE NOT ELIGIBLE FOR INCENTIVES** | | | | | | | | | | | |

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution Approving the Continuation of the Contamination Recycling Fee for Mt. Diablo Resource Recovery

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

Pittsburg Disposal and Debris Box Service, Inc. dba Mt. Diablo Resource Recovery (MDRR-Pittsburg) requested and received a discretionary adjustment or Contamination Recycling Fee for the additional sorting and processing of recyclables required to remove contaminates in order to meet new requirements by commodity processing facilities. MDRR-Pittsburg is requesting the discretionary rate adjustment be extended until the State-mandate SB 1383, California's Short-lived Climate Pollutants, Organic Waste Reductions (SB 1383) new curbside program and rate increase is presented to City Council in 2022.

## FISCAL IMPACT

Approval of this Resolution will have no direct fiscal impact on the City's general fund.

## RECOMMENDATION

City Council adopt the attached Resolution approving the continuation of the Contamination Recycling Fee for Mt. Diablo Resource Recovery.

## BACKGROUND

MDRR-Pittsburg is the local franchise collection contractor that provides residential, commercial, and industrial solid waste, recycling and green waste collection services within the City of Pittsburg. A discretionary rate adjustment or Contamination Recycling Fee was sought by MDRR-Pittsburg for the additional sorting and processing of recyclables required to remove contaminates in order to meet new requirements by commodity processing facilities due to China banning all imports of recyclable materials because of continued contamination, the volume of materials still stockpiled, and China's own consumer-generated recyclable materials.

On October 21, 2019, the City Council approved a cost-of-living rate increase matching the Consumer Price Index (CPI) and a discretionary rate adjustment requested by MDRR-Pittsburg. The discretionary rate adjustment of 4.63 percent for MDRR-Pittsburg was effective on January 1, 2020 and scheduled to sunset after 24 months or January 1, 2022. MDRR-Pittsburg requested an extension of the Contamination Recycling Fee as the City is reviewing its rate increase request for the implementation of SB 1383.

## SUBCOMMITTEE FINDINGS

This information was presented to the Finance Subcommittee meeting on November 19, 2021. The Subcommittee Members recommended proceeding with the Contamination Recycling Fee extension until the MDRR-Pittsburg Base Rate Application submittal can be brought before the City Council in early 2022.

## STAFF ANALYSIS

In November 2020, the State of California finalized SB 1383, the State-mandate California's Short-lived Climate Pollutants, Organic Waste Reduction regulations. As a result, in 2021, the City has been preparing for the implementation and compliance with SB 1383 which is effective January 1, 2022 as has most jurisdictions in California. As part of the process, the City Council passed the required update to its Municipal Code in June 2021, which set the foundation for implementing portions of SB 1383 and provided MDRR-Pittsburg the requirements for helping the City to be compliant with the mandates.

The City and MDRR-Pittsburg had a pre-submittal meeting in August to begin discussions about the curbside program and implementing SB 1383. A follow up meeting was held in October 2021 with additional data and information presented as requested by the City. The City received the Base Rate Application from MDRR-Pittsburg on November 5, 2021 for the adjustments and increased costs associated with the implementation of SB 1383.

Due to the length of time to review the submitted Base Rate Application, the presentation of the data and information of the Application to the Finance Subcommittee and meeting constraints, it was determined to present the Application to the City Council in 2022. As a result, MDRR-Pittsburg requested the Contamination Recycling Fee be continued until the new curbside program and rate increase could be present to the City Council in 2022 in order not to cause confusion with customers with billing price fluctuations.

Staff recommends that the City Council adopt the attached Resolution approving Contamination Recycling Fee extension until the Base Rate Application can be presented in 2022.

ATTACHMENTS: Resolution 21-
Exhibit A – Mt. Diablo Resource Recovery Letter, November 5, 2021, "2021 Base Rate Application Submittal."

Report Prepared By: Laura L. Wright, Environmental Affairs Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Approving the Continuation of the Contamination Recycling Fee for Mt. Diablo Resource Recovery | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, the City of Pittsburg granted Pittsburg Disposal and Debris Box Service dba Mt Diablo Resource Recovery (MDRR-Pittsburg) as the local, exclusive, franchise collection contractor that provides residential, commercial, and industrial solid waste, recycling and green waste collection services within the City of Pittsburg; and

WHEREAS, a discretionary rate adjustment or Contamination Recycling Fee was sought by MDRR-Pittsburg for the additional sorting and processing of recyclables required to remove contaminates in order to meet new requirements by commodity processing facilities due to China banning all imports of recyclable materials because of continued contamination, volume of materials still stockpiled, and China's own consumer-generated recyclable materials; and

WHEREAS, on October 21, 2019, the City Council approved a cost-of-living rate increase matching the Consumer Price Index (CPI) and a discretionary rate adjustment requested by MDRR-Pittsburg; and

WHEREAS, the discretionary rate adjustment was effective on January 1, 2020 and scheduled to sunset after 24 months or January 1, 2022; and

WHEREAS, the City has been preparing for the implementation and compliance of SB 1383, the State-mandate California's Short-lived Climate Pollutants, Organic Waste Reduction regulations which is effective January 1, 2022; and

WHEREAS, the City and MDRR-Pittsburg had pre-submittal meetings to begin discussions about the new curbside program for implementing SB 1383; and

WHEREAS, the City received the Base Rate Application from MDRR-Pittsburg on November 5, 2021 for the adjustments and increased costs associated with the implementation of SB 1383; and

WHEREAS, the Finance Subcommittee was presented this information on November 19, 2021; and

WHEREAS; MDRR-Pittsburg requested the Contamination Recycling Fee be continued until the new curbside program and rate increase could be present to the City Council in 2022 in order not to cause confusion with customers with billing price fluctuations.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby approves the request by MDRR-Pittsburg for the continuation of the Discretionary Rate Adjustment increase of 4.63 percent, approved October 21, 2019, and scheduled to sunset January 1, 2022, until the City Council reviews the submitted new 2021 Base Rate Application in 2022.

PASSED AND ADOPTED by the City Council of the City of Pittsburg, at a regular meeting on the twentieth day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

Mt. Diablo Resource Recovery
reduce • reuse • recycle • respect • recover
*A Garaventa Company*

November 5, 2021

Garrett Evans
City Manager
City of Pittsburg
65 Civic Ave
Pittsburg, CA 94565

**VIA EMAIL**

**Re: 2021 BASE RATE APPLICATON SUBMITTAL**

Dear Garrett,

Enclosed, please find our 2021 Base Rate Application and supporting materials. As we discussed in our pre submittal meetings, this application includes a comprehensive analysis and review of the existing services provided by Pittsburg Disposal & Debris Box Service, Inc., dba Mt. Diablo Resource Recovery-Pittsburg ("MDRR") for a Base Year review and adjustment. In addition, this application also includes the costs for new "State Mandates" of SB1383 implementation and compliance for collection and post-collection related services and activities. It is currently anticipated that these new services will hopefully start rolling out throughout 2022 for commercial customers & throughout 2023 for residential customers.

In addition to regular base year type items and SB1383 compliance costs, this application also reflects a proposed change regarding how the cost of recycling operations are off set within the current collection rates. As you recall, in 2019, a recycling contamination fee was approved due to the China National Sword and the new normal of the recycling commodities markets. Under the current approved rates, the cost to the ratepayer in 2020 to process the recyclables for Pittsburg was $897,608.

As you know, on September 20th, 2021, the City Council approved an increase to the gate rate at RCTS, which will become effective January 1st, 2022. This increase at RCTS will facilitate moving the cost to process recyclables for all our collection contracts into our post-collection operations. This cost would then be passed back down into the Pittsburg curb-side collection rates at a projected cost of approximately $410,764 (using 2020 RCTS gate tonnage for the City of Pittsburg). As you will see in the application, this will be a cost-saving to the Pittsburg ratepayers of roughly $486,844.

This report, including the attached supporting analysis, outlines the major components which have led up to where we are at this point and reflect the following circumstances:

- Extension of the residential recycling contamination fee (effective 1/1/2020) until the approval and implementation date of this proposed base rate application.
- SB 1383 implementation costs.
- Approved gate rate adjustment at RCTS (effective 1/1/2022).

The outline of this report is as follows:

A. Periodic base rate analysis.
B. Summary of proposed rate adjustment, including additional services.
C. Analysis, methodology, and supporting schedules.
D. Detailed breakdown of components of rate increase.
E. Conclusion and base rate application.

**A. Periodic Base Rate**

The purpose of this rate base rate application is to help the city establish the refuse, recycling, and organics collection rates in line with the city's franchise and rate-setting process. In the included analysis, MDRR has analyzed and presented the current results of normal & customary operations as if this were a normal base year review. In addition, this base rate application also reflects the proposed costs for the City of Pittsburg to implement SB1383 and its required related programs.

It is customary for base rate applications usually have a line item for un-collected revenue from past due accounts. Due to COVID 19, this number reached an all time high. However, through outreach, collection efforts and helping customers establish payment plans, we have decreased this uncollected amount by ~$2,273,210. As of the date of this application, we now only have ~$346,806 in un-collected revenue for the City of Pittsburg which we have decided to exclude from this application as to not further burden the ratepayer.

**B. Summary of Rate Adjustment and Additional Services**

As you will see in the application and attachments, this base year review starts off in a very good position for the City of Pittsburg with a revenue surplus of $1,426,592 or approximately a (13.44%) downward adjustment to the residential rates. Notwithstanding normal and customary base year adjustments, this application then accounts for: additional operating costs, SB 1383 implementation, cost increases of labor because of a new collective bargaining agreement (CBA), and the RCTS gate rate increase which collectively total ~$2,146,575 or an approximate 20.22% upward adjustment to the residential rates. When taking into consideration the surplus, the total revenue

requirement we are requesting with this base rate application is $719,982, or an approximate 6.78% upward adjustment to the residential rates.

In the attachments, you will also see that MDRR has proposed and is recommending for your consideration a different pricing strategy hopefully to further reduce contamination over time, and to smooth out this increase and pricing strategy on our customers over several years. The ability for the city to consider this proposed pricing strategy is made possible because of the surplus and the relatively low requested base rate adjustment. This pricing strategy includes eliminating the 32-gallon cart and transitioning its' cart pricing to equal the 64-gallon cart at the end of a five-year period. This pricing strategy would result in residential rates increasing annually between a range of ~3.35-7.75% over the five-year period.

**C. Analysis and methodology of supporting schedules.**

Please see the attached complete base rate application. For your review, we have included: supporting schedules, recent audited financial statements, and a series of worksheets & analysis. These attachments support this base year rate application and has been prepared in accordance with our Franchise Agreement and customary rate setting practices.

**D. Detailed Breakdown of Components Contributing to the Rate Application:**

1) **Labor:** In 2020 MDRR management successfully negotiated a new 5-year CBA. In the new CBA, wages increase on average 2.8% per year over the term of the contract, pension, health & welfare also increase marginally. For the City of Pittsburg service area, this base rate application anticipates our operations headcount to remain relatively the same for the next four to five years and will be readdressed with our next base rate application.

2) **CAPEX Investment (Replacement Rolling Truck Stock, Equipment & Facilities):** Capital expenditures pertaining to trucks are depreciated over seven years. Over the last three years, MDRR has implemented a long term planned vehicle fleet update so that we will be prepared when on January 1, 2023, the fleet CARB compliance regulations take effect. In this application, equipment and facilities are depreciated over ten and twenty years respectively. SB 1383 CAPEX related costs, other than trucks, are depreciated over seven years, with a mid-year depreciation convention. In the application you will see that these expenditures add up to $750,507.

3) **SB1383 Regulatory Cost Summary:** The costs associated with SB1383 compliance add up to $985,304 and were derived from the requirements as

outlined in the state regulations and then explicitly applied to the services MDRR provides within the City of Pittsburg. These items include:

- Compliant carts, lids, and labels
- Outreach and education
- Additional organics routes
- Residential and multi-family pails
- Compliance, inspections, and lid flips
- Post collection organics operations (improvements & processing)

Some of the above items are one-time costs and some are annual expenses. In our costing model, new carts are proposed to be rolled out over fourteen years. Additionally, some items typically do not qualify under Generally Accepted Accounting Principles (GAAP) as capitalize-able costs. However, our outside CPA auditors have given MDRR the endorsement that the accounting treatment for pails, lids & labels should be capitalized. This results in a rate softening for our customers for these items.

### 4) CCWS/RCTS Approved Tip Fee Increase:

| **RCTS Tipping Fee**<br><br>**RCTS Tip Fee Increase** (net of annual CPI adjustments) | | **All CCWS Tonnage including Public Gate Cost/Ton** |
|---|---|---|
| Recycling Operations @ MDR (this will replace the current Recycling Surcharge) | $ | 6.50 |
| SB1383 Post Collection Processing | $ | 4.25 |
| SB1383 Post Collection Improvements & Infrastructure @ RCTS | $ | 5.50 |
| **Total increase in CCWS Tip Fee/Ton (3-yr phase-in)** | **$** | **16.25** |

CCWS/RCTS processes all MSW, green waste, and recyclables for the City of Pittsburg. Further SB1383 compliance at RCTS has necessitated a tip fee adjustment as outlined above for facility upgrades, including an enclosed building for organics. This CCWS gate rate adjustment was approved by the City Council on September 20th and will be phased in over three years, starting in January 2022, and will also adjust annually by the CPI. This base rate application reflects this increase at CCWS/RCTS.

## E. Conclusion and Base Rate Application

The culmination these existing and additional operational costs have resulted in a total proposed residential base rate increase request of 6.78%. Projected comparable rates for other Cities have been included.

We are presenting two different models for your consideration, representing either a one-year (Option 1) or five-year (Option 2), residential phase-in period including a projected customary annual CPI adjustment of ~3.35% in each applicable year. The models include projected residential customer rates for each period broken down by container size and current customer count, showing both the percentage increase as well as the respective dollar increase. Both models also reflect our intention to increase all services within the commercial sector, effective January 1st, 2022. In Option 1, commercial rates are proposed to be increased by 6.78% (matching residential) in the first year, and in Option 2, commercial rates are proposed to be increased by 9% in the first year.

**Option 1 - Normal Base Year Adjustment (1-Year Implementation)**
**6.78% Residential Increase**
**6.78% Commercial Increase in 2022**
***(2023-2026 Assumes ~3.35% Annual CPI's)***

| | Low Income Senior | | Residential 32-Gallon | | Residential 64-Gallon | | Residential 96-Gallon | | |
|---|---|---|---|---|---|---|---|---|---|
| ~ Customer Counts = | 217 | | 6,473 | | 5,512 | | 4,693 | | 16,895 |
| | | | | | | | | | Averages (excluding low income rate) |
| Current Rates | $ 31.33 | | $ 44.69 | | $ 54.64 | | $ 61.29 | | $ 53.54 |
| 2022 | 6.78% | $ 2.12 | 6.78% | $ 3.03 | 6.78% | $ 3.70 | 6.78% | $ 4.16 | $ 3.63 |
| | $ 33.45 | | $ 47.72 | | $ 58.34 | | $ 65.45 | | $ 57.17 |
| 2023 | 3.35% | $ 1.12 | 3.35% | $ 1.60 | 3.35% | $ 1.95 | 3.35% | $ 2.19 | $ 1.92 |
| | $ 34.58 | | $ 49.32 | | $ 60.30 | | $ 67.64 | | $ 59.09 |
| 2024 | 3.35% | $ 1.16 | 3.35% | $ 1.65 | 3.35% | $ 2.02 | 3.35% | $ 2.27 | $ 1.98 |
| | $ 35.73 | | $ 50.97 | | $ 62.32 | | $ 69.90 | | $ 61.06 |
| 2025 | 3.35% | $ 1.20 | 3.35% | $ 1.71 | 3.35% | $ 2.09 | 3.35% | $ 2.34 | $ 2.05 |
| | $ 36.93 | | $ 52.68 | | $ 64.41 | | $ 72.25 | | $ 63.11 |
| 2026 | 3.35% | $ 1.24 | 3.35% | $ 1.76 | 3.35% | $ 2.16 | 3.35% | $ 2.42 | $ 2.11 |
| | $ 38.17 | | $ 54.44 | | $ 66.56 | | $ 74.67 | | $ 65.22 |
| Average Yearly Increase | $ 1.37 | | $ 1.95 | | $ 2.38 | | $ 2.68 | | $ 2.34 |
| Total 5-Year Increase | $ 6.84 | | $ 9.75 | | $ 11.92 | | $ 13.38 | | $ 11.68 |

| Option 2 - Slowly Phase Out the 32-gal Cart (5-Year Implementation)<br>~ 3.35% - 7.75% Residential Increase<br>9.0% Commercial Increase in 2022<br>(2023-2026 Assumes ~3.35% Annual CPI's) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Low Income Senior | | Residential 32-Gallon | | Residential 64-Gallon | | Residential 96-Gallon | | |
| ~ Customer Counts = | 217 | | 6,473 | | 5,512 | | 4,693 | | 16,895 |
| | | | | | | | | | Averages (excluding low income rate) |
| Current Rates | $ | 31.33 | $ | 44.69 | $ | 54.64 | $ | 61.29 | $ 53.54 |
| 2022 | 0.0% | $ - | 3.79% | $ 1.69 | 2.28% | $ 1.25 | 2.39% | $ 1.46 | $ 1.47 |
| | $ | 31.33 | $ | 46.38 | $ | 55.89 | $ | 62.75 | $ 55.01 |
| 2023 | 3.35% | $ 1.05 | 7.0% | $ 3.25 | 3.35% | $ 1.87 | 3.35% | $ 2.10 | $ 2.41 |
| No 32-Gal Carts for New Starts | $ | 32.38 | $ | 49.63 | $ | 57.76 | $ | 64.86 | $ 57.42 |
| 2024 | 3.35% | $ 1.08 | 6.76% | $ 3.36 | 3.35% | $ 1.93 | 3.35% | $ 2.17 | $ 2.49 |
| No 32-Gal Carts for New Starts | $ | 33.46 | $ | 52.99 | $ | 59.69 | $ | 67.03 | $ 59.90 |
| 2025 | 3.35% | $ 1.12 | 6.55% | $ 3.47 | 3.35% | $ 2.00 | 3.35% | $ 2.25 | $ 2.57 |
| No 32-Gal Carts for New Starts | $ | 34.59 | $ | 56.46 | $ | 61.69 | $ | 69.27 | $ 62.48 |
| 2026 | 3.35% | $ 1.16 | 7.75% | $ 4.38 | -1.38% | $ (0.85) | 3.35% | $ 2.32 | $ 1.95 |
| Swap out the 32-Gallon Carts | $ | 35.74 | $ | 60.84 | $ | 60.84 | $ | 71.60 | $ 64.42 |
| Average Yearly Increase | $ | 0.88 | $ | 3.23 | $ | 1.24 | $ | 2.06 | $ 2.18 |
| Total 5-Year Increase | $ | 4.41 | $ | 16.15 | $ | 6.20 | $ | 10.31 | $ 10.88 |

We look forward to presenting and further discussing these two options with city staff and the Finance Sub-Committee, as well as appearing before the City Council for their final consideration.

Please let our team know if any additional information is needed to consider and process this request. We appreciate the time you have spent with our team and look forward to further discussing this application at the earliest opportunity. Please do not hesitate to contact either myself, Kish Rajan, or Salvatore Evola should you have any questions or need additional information.

Best Regards,

Patrick Dolim
Chief Financial Officer

CC: Laura Wright – Environmental Affairs Manager, City of Pittsburg
Ronald J. Proto - CEO, Pittsburg Disposal & Debris Box Service, Inc.
Kish Rajan - CAO, Pittsburg Disposal & Debris Box Service, Inc.
Gary Lazdowski - COO, Pittsburg Disposal & Debris Box Service, Inc.

Attachments:
1) 2021 Base Rate Application
2) Presentation - Base Rate Application Summary
3) 2020 Audited Financial Statements (3 separate files, via email only)
4) Four (4) Separate Supporting Excel Files (via email only)

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Receive and File Staff's Report on the Review of Development Impact Fees Received by the City of Pittsburg that are Subject to AB 1600 Reporting Requirements

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

AB 1600 (Government Code Sections 66000–66008) requires cities to justify and account for developer fees which they enact, increase or impose as a condition of new development for the purposes of financing "public facilities and improvements." AB 1600 also requires an annual review of the developer fees that have been collected and spent during the previous year. This report fulfills the AB 1600 requirements.

## FISCAL IMPACT

There is no fiscal impact in receiving the report on the review of the Development Impact Fees received by the City of Pittsburg.

## RECOMMENDATION

Receive and file report pertaining to the review of Development Impact Fees received by the City of Pittsburg that are subject to AB 1600 reporting requirements.

## BACKGROUND

Many cities charge fees on new development to fund public facilities and improvements such as streets, libraries, sewer and water systems and storm drains. These fees are commonly known as Development Impact Fees. In order to ensure that these fees are spent in a timely manner and on projects for which they were collected, the State Legislature passed a bill known as AB 1600 (Mitigation Fee Act). This bill applies to developer fees increased or imposed, on or after January 1, 1989. Mitigation Fee Act enacts Government Code Sections 66000-66008 that generally contain the following four requirements:

1. A local jurisdiction must follow the process set forth in the bill and make certain determinations regarding the purpose and use of the fees, and establish a “nexus” or connection between a development project or class of project and the public improvement being financed with the fee.

2. The fee revenue must be segregated from the general fund in order to avoid commingling of public improvement fees and the general fund.

3. If a local jurisdiction has had possession of a developer fee for five years or more and has not committed that money to a project or actually spent that money, then it must make findings describing the continuing need for that money. In addition, an annual report must be made of fees collected, interest earned, projects on which fees were expended, and any transfers or loans from the fee account. This report is to be reviewed by the local agency assessing the fees.

4. If a local jurisdiction cannot make the findings required under Paragraph 3, the city or county must refund the fees collected.

It should be noted that Mitigation Fee Act reporting requirements do not apply to the following fees:

Fees charged in lieu of parkland dedication
Regulatory and processing fees
Fees collected pursuant to development agreements
Fees collected pursuant to a reimbursement agreement that exceeds the developer’s share of an improvement
Assessment district proceeds or taxes

**SUBCOMMITTEE FINDINGS**

This item was not presented to a subcommittee.

**STAFF ANALYSIS**

The City of Pittsburg assesses the following Developer Impact Fees:

Kirker Creek Drainage Fee
Local Traffic Mitigation Fee
Park Dedication Fee
Inclusionary Housing In-Lieu Fee
Traffic Impact Fair Share Fee
Pittsburg Regional Transportation Development Impact Mitigation Fee
Water Facility Reserve Fees
Sewer Facility Reserve Fees

The Traffic Mitigation Fees, Pittsburg Regional Transportation Development Impact Mitigation Fees, Kirker Creek Drainage Fees, Inclusionary Housing In-Lieu Fees, Traffic Impact Fair Share Fee and the Sewer and Water Facility Reserve Fees that the City of Pittsburg collects, qualify as Development Impact Fees. Therefore, these fees must comply with the above referenced Government Code. Government Code Section 66001 requires the City to make available to the public certain information regarding development impact fees for each fund within 180 days after the end of the fiscal year.

Expenditures of the fees collected must occur within a 5-year period of collection unless the City can make the appropriate findings that there remains reasonable relationships between the current need for the fees and the purpose for which they were originally proposed.

Kirker Creek Drainage Fees collected in the amount of $359,985 have been on deposit for over five years and these findings are stated on page 2 of the attached report. In summary, the Kirker Creek Drainage Fund is insufficient to construct the prioritized improvements recommended in the 2001 Storm Water Master Plan. As development continues in the Kirker Creek watershed area, additional funds will be collected and deposited for construction of the prioritized improvements.

In addition, there are Traffic Impact Fair Share funds in the amount $522,700 that have been on deposit for over five years and these findings are stated on Page 7 of the attached report. In summary, the fair share funds have been on deposit to address future capital projects in the areas near West Leland Road/Oak Hills Drive; East Leland Road/Century Boulevard; Willow Pass Road/Avila Road; San Marco Boulevard/West Leland Road; and Bailey Road/West Leland Road. The funding held on deposit will be augmented as development in the respective areas occur.

Although the Park Dedication Fee is covered under the Quimby Act and not the Mitigation Fee Act, staff has included the Park Dedication Fee in this report for reporting purposes only.

ATTACHMENTS: AB1600 Report
On File in the Office of the City Clerk

Report Prepared By: Priscilla Wong-O'Rourke, Financial Analyst

Report Reviewed By: Paul Rodrigues, Finance Director

| Kirker Creek Drainage Fees<br>Revenues and Expenditures - Fund 302<br>FY16/17 - FY20/21 | Proj # | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|---|
| **Fund Balance - July 1** | | $ 424,216 | $ 408,774 | $ 391,638 | $ 383,361 | $ 379,680 |
| **REVENUES:** | | | | | | |
| Kirker Creek Drainage Fees Collected | | | | 335 | | |
| **Other Revenue:** | | | | | | |
| Interest Earnings | | 1,716 | 2,164 | 12,292 | 11,133 | 1,288 |
| **Transfers-In:** | | 1,473 | 9,911 | | 5,009 | |
| **Total Revenues:** | | **3,189** | **12,075** | **12,628** | **16,142** | **1,288** |
| **EXPENDITURES:** | | | | | | |
| **Project Expenditures:** | | | | | | |
| Railroad Ave. Storm Drainage Improvements | 3202 | | 1,653 | 2,905 | | |
| Pump Station Repairs | 3205 | 1,330 | 9,911 | | 1,462 | 2,287 |
| **Transfers - Out:** | | | | | | |
| Tsfr-Out to General Fund (Engineering Support) | | 17,301 | 17,647 | 18,000 | 18,360 | 18,360 |
| Tsfr-Out to NPDES | | | | | | |
| **Total Expenditures:** | | **18,631** | **29,211** | **20,905** | **19,822** | **20,647** |
| | | | | | | |
| **Revenues Over/Under Expenditures:** | | **(15,442)** | **(17,136)** | **(8,277)** | **(3,680)** | **(19,359)** |
| | | | | | | |
| **Fund Balance - June 30** | | $ 408,774 | $ 391,638 | $ 383,361 | $ 379,680 | $ 360,321 |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Ordinance No. 01-1180 dated April 16, 2001 and Ordinance No. 05-1236 dated 02/07/05.

The five-year CIP was adopted by the City Council on December 21, 2020 per Resolution No. 20-13859

**KIRKER CREEK DRAINAGE FEES**

| Fiscal Year Collected | Amt. Collected |
|---|---|
| FY 06/07 | 142,572 |
| FY 07/08 | 78,676 |
| FY 08/09 | 1,526 |
| FY 09/10 | 18,986 |
| FY 10/11 | 61 |
| FY 11/12 | 1,638 |
| FY 12/13 | 1,937 |
| FY 13/14 | 710 |
| FY 14/15 | 99,647 |
| FY 15/16 | 14,232 |
| **Total Fees :** | **359,985** |

The above fees collected in the amount of $359,985 have been on deposit for over 5 years. Findings are as follows:

The Kirker Creek Drainage Fee was established in May 2001 for the purpose of providing funding for improvements to the storm water drainage system, which was overwhelmed by floodwaters in 1998. The City Council adopted Ordinance No. 01-1180 on May 7, 2001, adding Chapter 15.104, entitled "Storm Water Management Plan for Kirker Creek Watershed Drainage Area", to the Pittsburg Municipal Code. Chapter 15,104.080 set out a fee schedule, currently $0.68 per square foot of impervious area for development in the watershed. Fees collected are deposited in the account of the drainage facilities fund, and may be expended for land acquisition, construction, engineering, administration, repair, maintenance and operation of planned drainage facilities or to reduce the principal or interest of any bonded indebtedness of the drainage area.

Some of these fees were collected more than five years ago. Currently, the Kirker Creek Drainage Fund is insufficient to construct all of the improvements recommended in the 2001 Storm Water Master Plan. As development continues in this area of the City, additional funds will be collected and deposited into the Kirker Creek Drainage Fund and used to construct improvements identified by the 2001 Master Plan. Unfortunately, the timing of these funds is dependent on the pace of development within the watershed and is therefore inexact.

Reviewed and Confirmed By: _____

Richard Abono - Director of Public Works/City Engineer

| Local Traffic Mitigation Fees<br>Revenues and Expenditures - Fund 303<br>FY16/17 - FY20/21 | Proj # | FY16/17 | FY17/18 | FY18/19 | FY 19/20 | | FY 20/21 |
|---|---|---|---|---|---|---|---|
| **Fund Balance - July 1** | | **$ 2,768,463** | **$ 2,490,964** | **$ 2,174,701** | **$ 1,835,666** | | **$ 2,157,901** |
| **REVENUES:** | | | | | | | |
| Traffic Mitigation Fees Collected | | 198,531 | 198,647 | 1,443,301 | 422,541 | | 2,120,918 |
| Transfers-in from Reg Traffic Mitigation | | | | 420,069 | 236,304 | | |
| **Other Revenue:** | | | | | | | |
| Interest Earnings | | 9,548 | 13,004 | 68,485 | 181,516 | | 10,087 |
| **Total Revenues:** | | **208,079** | **211,651** | **1,931,855** | **840,361** | | **2,131,005** |
| **EXPENDITURES:** | | | | | | | |
| **Project Expenditures:** | | | | | | | |
| California Ave. Widening Phase I (North) | 3006 | 2,976 | 4,673 | 5,000 | | | |
| W. Leland Road Extension (San Marco to Avila) | 3011 | 3,164 | 2,346 | 14,449 | 13,207 | | |
| San Marco Blvd/ Santa Teresa Signal | 3012 | 5,665 | 131,935 | | | | |
| Intelligent Transportation System Upgrade | 3013 | 3,933 | | 289 | | | |
| San Marco Right Turn @West Leland | 3014 | | 54,367 | | | | |
| James Donlon Blvd Extension PHASE I | 3015 | | 181,350 | 2,167,793 | 366,742 | | 6,318 |
| **Other Expenditures:** | | | | | | | |
| Administration/Engineering Support | | 76,976 | 79,967 | 83,359 | 84,892 | | 76,311 |
| Land Acquisition* | | | | | 53,285 | | |
| **Transfers - Out:** | | | | | | | |
| Tsfr-Out to Gas Tax - 15/16 Citwide Pavement Management Project | | | 73,276 | | | | |
| Tsfr-Out to Pittsburg CIP - Traffic Signal Installation (3104) | | 92,864 | | | | | |
| Tsfr-Out to Measure J - BART Multimodal Facility | 2010 | 300,000 | | | | | |
| Tsfr-Out to Measure J - Ped & Bicycle Connectivity | 2019 | | | | | | 300,000 |
| **Total Expenditures:** | | **485,578** | **527,914** | **2,270,890** | **518,126** | | **382,629** |
| | | | | | | | |
| **Revenues Over/Under Expenditures:** | | **(277,499)** | **(316,263)** | **(339,035)** | **322,235** | | **1,748,376** |
| | | | | | | | |
| **Fund Balance - June 30** | | **$ 2,490,964** | **$ 2,174,701** | **$ 1,835,666** | **$ 2,157,901** | ** | **$ 3,906,276** |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Resolution No. 06-10687 dated December 18, 2006.

The five-year CIP was adopted by the City Council on December 21, 2020 per Resolution No. 20-13859

* During the FY 19/20, $53,285 was used to acquire a parcel of vacant surplus land from Contra Costa County adjacent to intersection of Harbor Street and California Avenue. The parcel will be used for expansion of this intersection to improve the safe and effecient flow of traffic through the intersection.

** A portion of these funds have been allocated towards the San Marco Right Turn @ W. Leland ($45,633)

| Park Dedication Fees<br>Revenues and Expenditures - Fund 304<br>FY16/17 - FY20/21 | Proj # | FY16/17 | FY17/18 | FY18/19 | FY19/20 | | FY20/21 |
|---|---|---|---|---|---|---|---|
| **Fund Balance - July 1** | | **$ 1,492,823** | **$ 1,389,615** | **$ 1,284,856** | **$ 755,706** | | **$ 1,538,367** |
| **REVENUES:** | | | | | | | |
| Park Dedication Fees Collected | | 1,590,900 | 19,531 | 58,160 | 457,221 | | 1,223,013 |
| **Other Revenue:** | | | | | | | |
| Interest Earnings | | 3,754 | 1,217 | 32,801 | 43,637 | | 3,736 |
| Measure WW Grant - Ambrose Park Pool Renovation | | 1,192,053 | 153,957 | | | | |
| Ambrose Park Pool Renovation - County Share | | 100,000 | | | | | |
| Ambrose Park Restroom Renovation - County Share | | | | | 510,000 | | 318,788 |
| Ambrose Park Pool Renovation - Ambrose District Share | | 22,000 | | | | | |
| John Henry Johnson Park - Housing Related Parks Grant | | | | | | | |
| **Transfers-In:** | | | | | | | |
| Tsfr-In from Infrastructure Repair/Rplcment Fund - Buckley Square | | | (40,481) | | | | |
| **Total Revenues:** | | **2,908,707** | **134,224** | **90,962** | **1,010,858** | | **1,545,536** |
| **EXPENDITURES:** | | | | | | | |
| **Project Expenditures:** | | | | | | | |
| Small World Park New Features | 3054 | | 935 | | | | |
| Ambrose Park Master Plan & Improvements | 3057 | 2,058,168 | 135,305 | 3,720 | 534 | | 809 |
| John Henry Johnson Park Improvements | 3062 | 42,580 | 1,299 | | | | |
| San Marco Park | 3065 | 24,556 | 23,477 | 359,665 | | | |
| John Buckley Square (Old Town Park) | 3066 | 18,380 | 10,901 | | | | |
| DeAnza Park Rehabilitation | 3069 | | | 5,879 | | | |
| PK-3 Small World Park Improvements | 3070 | | | 23,438 | | | |
| PK-6 City Park Soccer Field Replacement | 3072 | | | 14,680 | | | |
| PK-9 Annual Park Features Replacement | 3073 | | | 15,093 | 1,385 | | 21,498 |
| PK-10 Biennial Restroom Repl/Rehab | 3074 | | | 6,377 | | | |
| pk-15 Annual Park Sign Replacement | 3075 | | | | | | 43,633 |
| PK-8 Biennial Playfield Replacement | 3076 | | | | 20,344 | | |
| PK-13 Annual Park and Landscaping Imp | 3077 | | | | 18,947 | | 8,206 |
| Downtown Ice Rink | 3078 | | | | 19,283 | | |
| Ambrose Park Restroom Construction | 3079 | | | | 49,085 | | 245,432 |
| Oak Hills Restroom | 3123 | | | | | | |
| **Other Expenditures:** | | | | | | | |
| Administration/Engineering Support | | | | | | | |
| Interest Accrual - Interfund Loans | | 6,539 | | | | | |
| Interfund Loan Payoff to Sewer Fund | | 402,610 | | | | | |
| Interfund loan Payoff to Power Fund | | 402,610 | | | | | |
| **Transfers - Out:** | | | | | | | |
| Tsfr-Out to General Fund - Engineering Support | | 56,472 | 58,731 | 59,906 | 61,104 | | 58,049 |
| Tsfr-Out to Measure J Fund | | | | 108,689 | 32,515 | | |
| Tsfr-Out to Gas Tax Fund - Standard Detail Update | | | 8,335 | 22,665 | 25,000 | | |
| **Total Expenditures:** | | **3,011,916** | **238,983** | **620,111** | **228,197** | | **377,627** |
| | | | | | | | |
| **Revenues Over/Under Expenditures:** | | **(103,209)** | **(104,759)** | **(529,149)** | **782,661** | | **1,167,909** |
| | | | | | | | |
| **Fund Balance - June 30** | | **$ 1,389,615** | **$ 1,284,856** | **$ 755,706** | **$ 1,538,367** | * | **$ 2,706,276** |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Ordinance No. 06-1275 dated October 16, 2006.

The five-year CIP was adopted by the City Council on December 21, 2020 per Resolution No. 20-13859

*A major portion of these funds have been allocated towards the following: West Leland Street Lighting ($25,000), Ambrose Park Master Plan-Completed ($14,932), Small World Park Improvements ($990), Annual Playground Replacement ($160,000), City Park Soccer Field Turf Replacement ($235,320), Annual Park Features Replacement ($208,522), Biennial Restroom Replacement/Rehab ($133,623), Annual Park Sign Replacement ($100,000), Biennial Playfield Replacement ($96,226), Annual Park and Landscaping Improvements ($181,053), Downtown Ice Rink ($280,717), Ambrose Park Restroom ($182,350), Oak Hills Restroom ($500,000)

| Inclusionary Housing In-Lieu Fees<br>Revenues and Expenditures - Fund 305<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | $ 387,492 | $ 389,133 | $ 391,255 | $ 404,014 | $ 416,121 |
| **REVENUES:** | | | | | |
| Inclusionary Housing In Lieu Fees Collected | | | | | |
| **Other Revenue:** | | | | | |
| Interest Earnings | 1,641 | 2,122 | 12,759 | 12,107 | 2,397 |
| **Transfers-In:** | | | | | |
| **Total Revenues:** | 1,641 | 2,122 | 12,759 | 12,107 | 2,397 |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:** | | | | | |
| **Transfers - Out:** | | | | | |
| **Total Expenditures:** | - | - | - | - | - |
| | | | | | |
| **Revenues Over/Under Expenditures:** | 1,641 | 2,122 | 12,759 | 12,107 | 2,397 |
| | | | | | |
| **Fund Balance - June 30** | $ 389,133 | $ 391,255 | $ 404,014 | $ 416,121 | $ 418,518 |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Resolution No. 05-10215 dated 2/7/2005 and Ordinance No. 04-1229 dated 11/15/04.

Of these fees, $380,000 will be used to help finance construction of 29 new affordable housing units by Veterans Square L.P. per Resolution No. 19-329 dated 09/16/19. The project will now be constructed by Satellite Affordable Housing Associates (SAHA) instead of Veterans Square L.P. The $380,000 has been used to pay for permits and fees and other related development cost.

| Traffic Impact Fair Share Fund<br>Revenues and Expenditures - Fund 306<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | **$ 512,155** | **$ 487,174** | **$ 489,831** | **$ 505,805** | **$ 520,962** |
| **REVENUES:** | | | | | |
| Traffic Impact Fair Share Fees Collected | | | | | |
| **Other Revenue:**<br>Interest Earnings | 2,067 | 2,657 | 15,973 | 15,158 | 1,740 |
| **Total Revenues:** | **2,067** | **2,657** | **15,973** | **15,158** | **1,740** |
| **EXPENDITURES:** | | | | | |
| Transfer-Out to Pittsburg CIP - Traffic Signal Installation | 27,048 | | | | |
| **Total Expenditures:** | **27,048** | **-** | **-** | **-** | **-** |
| | | | | | |
| **Revenues Over/Under Expenditures:** | **(24,981)** | **2,657** | **15,973** | **15,158** | **1,740** |
| | | | | | |
| **Fund Balance - June 30** | **$ 487,174** | **$ 489,831** | **$ 505,805** | **$ 520,962** | **$ 522,702** |

11/14/13 - A fee refund of $3,750.00 + $726.00 interest was paid to Empire Business Park (Lonne Carr). Refund due to a deposit intended to extend the left turn lanes at the intersection that was proposed, however there are no plans by the City, Contra Costa County or Caltrans to complete this at this time.

**Description of fee:**

Traffic Impact Fair Share fees were collected for the purpose of funding transportation projects in the area of new developments. Developers of individual projects paid a fee consistent with their percentage share of the cost of the traffic project, such as road widening or traffic signal, made necessary by their development. The share of responsibility was determined by a traffic study required by the City during the permit approval process. For example, if a fast food restaurant was determined by a traffic study to add 3 percent of the traffic at an intersection that will need a traffic signal, the developer would pay a fee in an amount equivalent to 3 percent of the cost of a signal, or $6,600 for a $220,000 traffic signal project. (See attachment for the amount collected per developer and the description of the specific traffic impact.)

ACCOUNT # 306-55501-5495
TRANSPORTATION MITIGATION (TRAFFIC IMPACT) FAIR SHARE REVENUE
at June 30, 2021

| Deposit # | Date | Payee | Description | Amt. Paid | *Interest Earned | Receipt # | Funds Used or Returned | Balance |
|---|---|---|---|---|---|---|---|---|
| 1 | 05/18/01 | A. D. Seeno | Fair Share - West Leland Signal at Oak Hills Drive | 19,415.00 | 8,079.65 | R000595397 | (27,048.00) | $ 447 |
| 2 | 05/18/01 | A. D. Seeno | Re-Align Driveway at Los Medanos College with Signal at Leland and Century Blvd. | 78,774.52 | 41,797.20 | R000595312 | - | $ 120,572 |
| 3 | 12/12/06 | William Lyon Homes | Fair Share for Intersection Improvements at - (1) West Leland Rd/Bailey Road Intersection (2) Avila Road/Willow Pass Road (3) San Marco/West Leland Intersection | 351,448.00 | 80,233.99 | 0634602-1#17 | (30,000.00) | $ 401,682 |
| | | | **Totals:** | **$ 449,637.52** | **$ 130,110.84** | | **$ (57,048)** | **$ 522,700** |

Funds related to Items 1, 2, and 3 have been on deposit for over 5 years. Findings are as follows:

1 Traffic Signal at West Leland Road and Oak Hills Drive has been completed. Additional development on the vacant parcel between the Oak Hills Shopping Center and BART will also contribute a share of the traffic impacts at this intersection once it is constructed. A separate traffic signal project lies within the project area for several infrastructure projects planned in the Bailey Road/Leland Road area. The pace of development in this area is outside the City's control. Once the remaining development in the area is identified, the intersection will be redesigned and signalized using these funds and Local Traffic Mitigation Fee funding.

2 Fees collected in the amount of $78,774.52 are for improvements to the intersection of East Leland Road and Century Boulevard, near the intersection of East Leland Road and Los Medanos College's eastern entrance. This project is included in the City's adopted Capital Improvement Program as ST-30, but has not yet been scheduled or constructed. Additional development on a vacant parcel on the southeast corner of this intersection will also contribute a share of the traffic impacts at this intersection. A roadway that is proposed to connect this intersection with Buchanan Road and James Donlon Boulevard may also contribute to these impacts. The pace of development in this area is outside the City's control, but it is a factor that has delayed implementation of this project. Once the remaining development in the area is identified, the project will be designed and constructed using these funds.

3 Intersection improvements are planned at three intersections that will be impacted by development in this area of the city. Specifically,

(a) At Willow Pass Road and Avila Road, including addition of left turn lanes in the westbound and southbound directions, and a right turn lane from the northbound direction; and

(b) At San Marco Boulevard and West Leland Road, including converting northbound shared lane into exclusive right turn lane, and convert northbound left turn lane to a thru-lane; and

(c) At Bailey Road and West Leland Road, including addition of westbound shared thru/right turn lane, addition of eastbound left turn lane, and eastbound right turn lane.

The timing of the construction of these projects is subject to the pace of development in the area of the City, among other factors. In addition, a portion of the project area lies outside the City's jurisdiction. These funds will be retained pending development of a project scope, schedule and design.

* Interest in FY 2016/17 was misallocated. The original allocations were $117.07 to Deposit 1, $477.03 to Deposit 2 and $1,473.89 to Deposit 3. The correct allocations were $1.77 to Deposit 1, $474.78 to Deposit 2 and $1,590.45 to Deposit 3. This correction is reflected in the current table.

Reviewed and Confirmed By:

Richard Abono - Director of Public Works/City Engineer

| Pittsburg Regional Transportation Development Impact Mitigation (PRTDIM) Fees<br>Revenues and Expenditures - Fund 307<br>FY16/17 - FY20/21 | Proj # | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | | FY 20/21 |
|---|---|---|---|---|---|---|---|
| **Fund Balance - July 1** | | **$ 2,381,746** | **$ 1,673,471** | **$ 632,061** | **$ 213,588** | | **$ (20,910)** |
| **REVENUES:** | | | | | | | |
| PRTDIM Fees Collected | | 17,176 | | | | | |
| **Other Revenue:** | | | | | | | |
| Interest Earnings | | 9,563 | 6,420 | 18,772 | 3,687 | | 323 |
| Prior Year Revenue | | | | (17,176) | | | |
| **Total Revenues:** | | **26,739** | **6,420** | **1,596** | **3,687** | | **323** |
| **EXPENDITURES:** | | | | | | | |
| **Project Expenditures:** | | | | | | | |
| James Donlon Blvd. Extension | 3701 | 270 | 46,606 | | | | |
| Railroad Avenue Traffic Siginal Timing | 3702 | 64,630 | 830 | | | | |
| Bart Access Improvments Project | 3703 | 15,512 | 123 | | 1,881 | | |
| Bart Parking and Access Strategy | 3704 | 73,603 | 1,270 | | | | |
| **Transfers - Out:** | | | | | | | |
| Tsfr-Out to eBART CFD | | 580,999 | | | | | |
| Transfer-Out to Measure J (BART Multimodal) | | | 999,001 | | | | |
| Transfer-Out to Local TMF Fund | | | | 420,069 | 236,304 | | |
| **Total Expenditures:** | | **735,014** | **1,047,830** | **420,069** | **238,185** | | **-** |
| | | | | | | | |
| **Revenues Over/Under Expenditures:** | | **(708,275)** | **(1,041,410)** | **(418,473)** | **(234,498)** | | **323** |
| | | | | | | | |
| **Fund Balance - June 30** | | **$ 1,673,471** | **$ 632,061** | **$ 213,588** | **$ (20,910)** | * | **$ (20,587)** |

These fees were used to help fund regional transportation improvements, necessary to offset the impacts of continuing growth and development within the City, and to cooperate with the City's regional partners, including East Contra Costa Regional Fee and Financing Authority (ECCRFFA), to fund and implement transportation projects in the regional area. Fees are no longer retained at the City level, but instead are collected and passed through to ECCRFFA to be used for regional projects.

The description of this fee and fee amounts are attached per Resolution No. 10-11533 dated 09/20/10 and Ordinance No. 10-1329 dated 10/04/10.

There have been no fee refunds to-date.

The five-year CIP was adopted by the City Council on December 21, 2020 per Resolution No. 20-13859

* A portion of these fees have been programmed for the James Donlon Blvd Extension Phase I ($236,304) Railroad Ave Traffic Signal Timing, ($4,540) BART Access Improvements ($9,364), BART Parking and Access Strategy ($5,127)

| Water Facility Reserve Fees - Water Treatment Plant Expansion<br>Revenues and Expenditures - Fund 502<br>FY16/17 - FY20/21 | Proj # | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | | FY 20/21 |
|---|---|---|---|---|---|---|---|
| **Fund Balance - July 1** | | $ 1,579,399 | $ 804,648 | $ 867,412 | $ 991,394 | | $ 1,258,217 |
| **REVENUES:** | | | | | | | |
| Water Facility Reserve Fees Collected | | 136,857 | 74,500 | 96,937 | 80,089 | | 234,579 |
| **Other Revenue:** | | | | | | | |
| Interest Earnings | | 717 | 3,751 | 27,046 | 31,739 | | 3,803 |
| Transfers-In from Water Bond | | 781,568 | | | | | |
| Transfers-In from Water Fund | | 467,732 | 607,608 | 34,688 | 168,660 | | |
| Transfers-In from Water Fund (iBank loan funds) | | 3,766,561 | 339,170 | | | | |
| Transfers-In from Water Facility Reserve (Other Fund) | | 39,331 | | | | | |
| **Total Revenues:** | | **5,192,766** | **1,025,029** | **158,671** | **280,488** | | **238,382** |
| **EXPENDITURES:** | | | | | | | |
| **Project Expenditures:** | | | | | | | |
| Water Treatment Plant SCADA Upgrades | 5035 | 36,656 | 15,487 | | | | 3,402 |
| Water Treatment Plant Sludge Handling Facility | 5040 | 5,830,861 | 946,778 | 34,688 | 13,665 | | 2,330 |
| W-55 Buchanan Road Waterline | 5049 | 100,000 | | | | | |
| **Total Expenditures:** | | **5,967,517** | **962,265** | **34,688** | **13,665** | | **5,732** |
| **Revenues Over/Under Expenditures:** | | **(774,751)** | **62,764** | **123,982** | **266,823** | | **232,650** |
| **Fund Balance - June 30** | | $ 804,648 | $ 867,412 | $ 991,394 | $ 1,258,217 | * | $ 1,490,867 |

The description of this fee and fee amounts collected prior to August 20, 2005 are attached per Resolution No. 98-8551.

The description of this fee and fee amounts collected on or after August 20, 2005 are attached per Resolution No. 05-10291.
Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12

The five-year CIP was adopted by the City Council on December 21, 2020 per Resolution No. 20-13859

* A portion of these funds have been allocated to upgrade the Supervisory Control and Data Acquisition (SCADA) system at the Water Treatment Plant ($8,544), WTP Disinfection Modification & Conversion ($400,000)

| Water Facility Reserve Fees - Water Distribution<br>Revenues and Expenditures - Fund 503<br>FY16/17 - FY20/21 | Proj # | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | | FY 20/21 |
|---|---|---|---|---|---|---|---|
| **Fund Balance - July 1** | | $ 407,231 | $ 394,913 | $ 383,204 | $ 909,057 | | $ 455,303 |
| **REVENUES:** | | | | | | | |
| WFR - Water Distribution Fees Collected | | 63,420 | 231,622 | 502,803 | 337,243 | | 1,062,084 |
| **Other Revenue:** | | | | | | | |
| Interest Earnings | | 1,762 | 2,122 | 23,050 | 36,503 | | (520) |
| **Total Revenues:** | | **65,182** | **233,744** | **525,853** | **373,746** | | **1,061,563** |
| **EXPENDITURES:** | | | | | | | |
| **Project Expenditures:** | | | | | | | |
| Delta Diablo Recycled Water - John Buckley Park | | | 102,500 | | | | |
| Waterline School Street between Harbor/Vincent | | | 220,453 | | | | |
| Transfers-Out to Water Facility Reserve Fund 502 - 2016/17 Water Main Installation Project | 5054 | 77,500 | (77,500) | | | | |
| **Transfers - Out to Sewer Fund:** | | | | | 827,500 | | |
| **Total Expenditures:** | | **77,500** | **245,453** | **-** | **827,500** | | **-** |
| **Revenues Over/Under Expenditures:** | | **(12,318)** | **(11,709)** | **525,853** | **(453,754)** | | **1,061,563** |
| **Fund Balance - June 30** | | $ 394,913 | $ 383,204 | $ 909,057 | $ 455,303 | * | $ 1,516,867 |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005.
Revised fee amounts are attached per Resolution No.12-11778 dated 02/21/12

These fees ensure the distribution system has available operational capacity to meet the demands of new development outside the Southwest Hills.

The five-year CIP was adopted by the City Council on December 21, 2020 per Resolution No. 20-13859

*A portion of these funds have been programmed for 10/11 Sewer Replacement Program ($750,000), CCTV/Inspection/Sewer Replacement Program-Completed ($77,500)

| Water Facility Reserve Fees - Zone 1 & 2 Reservoir<br>Revenues and Expenditures - Fund 504<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | **$ 960,975** | **$ 965,043** | **$ 970,305** | **$ 1,001,946** | **$ 1,031,972** |
| **REVENUES:** | | | | | |
| WFR - Zone 1/11 Reservoir Fees Collected | | | | | |
| **Other Revenue:**<br>Interest Earnings | 4,068 | 5,262 | 31,641 | 30,026 | 3,446 |
| **Transfers-In:** | | | | | |
| **Total Revenues:** | **4,068** | **5,262** | **31,641** | **30,026** | **3,446** |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:** | | | | | |
| **Transfers - Out:** | | | | | |
| **Total Expenditures:** | **-** | **-** | **-** | **-** | **-** |
| | | | | | |
| **Revenues Over/Under Expenditures:** | **4,068** | **5,262** | **31,641** | **30,026** | **3,446** |
| | | | | | |
| **Fund Balance - June 30** | **$ 965,043** | **$ 970,305** | **$ 1,001,946** | **$ 1,031,972** | **$ 1,035,418** |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005. Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12

These fees will be used to fund the cost of a water reservoir for Zones 1 and 2 which are not within the Southwest Hills ar

| Water Facility Reserve Fees - SE 20" Trans Line<br>Revenues and Expenditures - Fund 505<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | **$ 859,357** | **$ 131,100** | **$ 157,075** | **$ 233,334** | **$ 287,032** |
| **REVENUES:** | | | | | |
| WFR - SE 20" Trans Line Fees Collected | 30,590 | 25,184 | 69,538 | 45,491 | 112,288 |
| **Other Revenue:**<br>Interest Earnings | 1,175 | 791 | 6,721 | 8,207 | 747 |
| **Transfers-In:** | | | | | |
| **Total Revenues:** | **31,765** | **25,975** | **76,258** | **53,698** | **113,035** |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:**<br>Interest Expense | 22 | | | | |
| **Transfers Out to Water Fund** (W-55 Buchanan Road Waterline) | 760,000 | | | | |
| **Total Expenditures:** | **760,022** | **-** | **-** | **-** | **-** |
| | | | | | |
| **Revenues Over/Under Expenditures:** | **(728,257)** | **25,975** | **76,258** | **53,698** | **113,035** |
| | | | | | |
| **Fund Balance - June 30** | **$ 131,100** | **$ 157,075** | **$ 233,334** | **$ 287,032** | **$ 400,066** |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005.
Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12

These fees will be used to fund the Segment 1E and Zone 2 Transmission Pipeline to the new Zone 2 Reservoir.

| Water Facility Reserve Fees - SW Hills CIP - Phase I & II<br>Revenues and Expenditures - Fund 506<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | **$ (0)** | **$ 57,467** | **$ 5,501** | **$ 0** | **$ 0** |
| **REVENUES:** | | | | | |
| WFR - SW Hills CIP Fees Collected | 272,555 | 151,251 | 150,179 | 123,773 | 567,849 |
| **Other Revenue:** | | | | | |
| Interest Earnings | 97 | | 1,840 | 3,166 | (939) |
| **Total Revenues:** | **272,652** | **151,251** | **152,018** | **126,939** | **566,910** |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:** | | | | | |
| Interest Expense | 403 | 34 | | | |
| **Transfers - Out:** | | | | | |
| Transfer-Out to Water Revenue Bond (1) | 214,782 | 203,183 | 157,519 | 126,939 | 566,910 |
| **Total Expenditures:** | **215,185** | **203,217** | **157,519** | **126,939** | **566,910** |
| | | | | | |
| **Revenues Over/Under Expenditures:** | **57,467** | **(51,966)** | **(5,501)** | **-** | **-** |
| | | | | | |
| **Fund Balance - June 30** | **$ 57,467** | **$ 5,501** | **$ 0** | **$ 0** | **$ 0** |

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005.
Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12

(1) The fees collected will reimburse Water Bond funds used in prior years to construct the new 3.0 MG Zone 2 Reservoir, two pump stations (Zone 2 & 3) and Transmission Pipeline Segments 2-5 to serve Southwest Hills. Reimbursement will take place as funds become available, starting in Fiscal Year 2011/12. Project Descriptions and Expenses incurred are as follows:

| | |
|---|---|
| West Leland Waterline | $ 234,766 |
| Vista Del Mar Waterline | 235,154 |
| Southwest Hills Water Improvement Project | 13,200,368 |
| Total Eligible for Reimbursement: | 13,670,288 |
| Reimbursed in Prior Years | (1,208,021) |
| Reimbursed in Fiscal Year 14/15 | (265,688) |
| Reimbursed in Fiscal Year 15/16 | (428,624) |
| Reimbursed in Fiscal Year 16/17 | (214,782) |
| Reimbursed in Fiscal Year 17/18 | (203,183) |
| Reimbursed in Fiscal Year 18/19 | (157,519) |
| Reimbursed in Fiscal Year 19/20 | (126,939) |
| Reimbursed in Fiscal Year 20/21 | (566,910) |
| Balance Remaining to Reimburse Water Bond | $10,498,622 |

| Water Facility Reserve Fees - SW Hills Phase III Pipe/Reservoir<br>Revenues and Expenditures - Fund 507<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | $ 2,156,897 | $ 2,292,965 | $ 2,339,136 | $ 2,425,179 | $ 3,255,808 |
| **REVENUES:** | | | | | |
| WFR - SW Hills Phase III Pipe Fees Collected | 126,385 | 33,593 | 9,831 | 3,860 | 150,961 |
| **Other Revenue:**<br>Interest Earnings | 9,683 | 12,578 | 76,212 | 72,769 | 10,622 |
| **Transfers-In:**<br>Tsfr-In from Water Bond | | | | 754,000 | |
| **Total Revenues:** | 136,068 | 46,171 | 86,043 | 830,629 | 161,583 |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:** | | | | | |
| **Transfers - Out:** | | | | | |
| **Total Expenditures:** | - | - | - | - | - |
| | | | | | |
| **Revenues Over/Under Expenditures:** | 136,068 | 46,171 | 86,043 | 830,629 | 161,583 |
| | | | | | |
| **Fund Balance - June 30** | $ 2,292,965 | $ 2,339,136 | $ 2,425,179 | $ 3,255,808 | $ 3,417,391 |

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005.
Revised fee amounts are attached per Resolution No.12-11778 dated 02/21/12

A portion of these funds have been programmed for the Water Main at West Leland, from Water Treatment Plant to Southwest Hills ($1,796,000)

In addition to funding segment P-1, the fees collected will reimburse Water Bond funds used in prior years to construct the new Transmission Pipeline Segments P2-5 to serve Southwest Hills. Reimbursement will take place as funds become available, and after the other segments of the pipeline are completed.

| Water Facility Reserve Fees - SW Hills Phase III Pump Revenues and Expenditures - Fund 508 FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | 4 | (0) | (0) | (0) | (0) |
| **REVENUES:** | | | | | |
| WFR - SW Hills Phase III Pump Fees Collected | | | | | |
| **Other Revenue:** | | | | | |
| **Transfers-In:** | | | | | |
| **Total Revenues:** | 0 | 0 | - | - | - |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:** | | | | | |
| **Transfers - Out:** | | | | | |
| Transfer-Out to Water Revenue Bond (1) | 4 | | | | |
| **Total Expenditures:** | 4 | - | - | - | - |
| **Revenues Over/Under Expenditures:** | (4) | 0 | - | - | - |
| **Fund Balance - June 30** | $ (0) | $ (0) | $ (0) | $ (0) | $ (0) |

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005. Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12

(1) The fees collected will reimburse Water Bond funds used in prior years to acquire the Zone 4 site at San Marco for water lines serving Zones 3 and higher within the Southwest Hills area. Reimbursement will take place as funds become available, starting in Fiscal Year 2011/12. Project Description and Expenses incurred are as follows:

| | |
|---|---|
| San Marco Site Land Acquisition | $325,000 |
| Total Eligible for Reimbursement: | $ 325,000 |
| Reimbursed in FY 2011/12: | (103,102) |
| Balance Remaining to Reimburse Water Bond | $ 221,898 |

| Water Treatment Plant Sludge Handling<br>Revenues and Expenditures - Fund 509<br>FY16/17 - FY20/21 | Proj # | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|---|
| **Fund Balance - July 1** | | $ 0 | $ 75,989 | $ 166,546 | $ 293,858 | $ 401,761 |
| **REVENUES:** | | | | | | |
| WFR - Water Treatment Plant Sludge Handling | | 115,500 | 89,909 | 119,387 | 96,599 | 294,805 |
| **Other Revenue:**<br>Interest Earnings | | 21 | 648 | 7,925 | 11,304 | 836 |
| **Total Revenues:** | | **115,521** | **90,557** | **127,312** | **107,903** | **295,641** |
| **EXPENDITURES:** | | | | | | |
| **Project Expenditures:**<br>Interest Expense | | 201 | | | | |
| **Transfers-Out to Water Facility Reserve - Fund 502** (W-33 WTP Sludge Handling Facility) | 5040 | 39,331 | | | | |
| **Total Expenditures:** | | **39,532** | - | - | - | - |
| | | | | | | |
| **Revenues Over/Under Expenditures:** | | **75,989** | **90,557** | **127,312** | **107,903** | **295,641** |
| | | | | | | |
| **Fund Balance - June 30** | | $ 75,989 | $ 166,546 | $ 293,858 | $ 401,761 | $ 697,402 |

The Water Treatment Plant (WTP) Sludge Handling Fee (Fund 509) covers the cost of increasing the WTP's capacity for handling additional sedimentation basin sludge, a result of increased WTP water production resulting from additional development within the City.

Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12

(1) $550,000 was programmed for a Sludge Handling Facility at the Water Plant. Fund 502, Water Treatment Plant Expansion funded $300,000 of the project, $250,000 was funded with Sludge Handling funds (fund 509). The balance of $300,000 has been reimbursed from Water Treatment Plant Sludge Handling funds in FY 2015/16.

| Water Facility Reserve Fees - Zone 1 Reservoir<br>Revenues and Expenditures - Fund 510<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | $ 223,973 | $ 320,266 | $ 440,985 | $ 714,829 | $ 910,980 |
| **REVENUES:** | | | | | |
| WFR - Zone 1 Reservoir Fees Collected | 94,920 | 118,612 | 254,174 | 170,049 | 552,231 |
| **Other Revenue:**<br>Interest Earnings | 1,373 | 2,107 | 19,670 | 26,102 | 1,986 |
| **Transfers-In:** | | | | | |
| **Total Revenues:** | 96,293 | 120,719 | 273,844 | 196,151 | 554,217 |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:** | | | | | |
| **Transfers - Out:** | | | | | |
| **Total Expenditures:** | - | - | - | - | - |
| | | | | | |
| **Revenues Over/Under Expenditures:** | 96,293 | 120,719 | 273,844 | 196,151 | 554,217 |
| | | | | | |
| **Fund Balance - June 30** | $ 320,266 | $ 440,985 | $ 714,829 | $ 910,980 | $ 1,465,197 |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005.
Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12

These fees will be used to fund the cost of a water reservoir for Zones 1 which are not within the Southwest Hills area.

| Water Facility Reserve Fees - Zone 2 Reservoir<br>Revenues and Expenditures - Fund 511<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | $ 72,862 | $ 87,438 | $ 87,914 | $ 114,040 | $ 130,588 |
| **REVENUES:** | | | | | |
| WFR - Zone 1 Reservoir Fees Collected | 14,210 | | 22,586 | 12,828 | 708 |
| **Other Revenue:**<br>Interest Earnings | 366 | 476 | 3,540 | 3,720 | 438 |
| **Transfers-In:** | | | | | |
| **Total Revenues:** | 14,576 | 476 | 26,126 | 16,548 | 1,146 |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:** | | | | | |
| **Transfers - Out:** | | | | | |
| **Total Expenditures:** | - | - | - | - | - |
| | | | | | |
| **Revenues Over/Under Expenditures:** | 14,576 | 476 | 26,126 | 16,548 | 1,146 |
| | | | | | |
| **Fund Balance - June 30** | $ 87,438 | $ 87,914 | $ 114,040 | $ 130,588 | $ 131,734 |

There have been no fee refunds to-date.

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005.
Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12

These fees will be used to fund the cost of a water reservoir for Zone 2 which are not within the Southwest Hills area.

| Sewer Facility Reserve Fees -Collection System Capacity Buy-In<br>Revenues and Expenditures - Fund 522<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | | FY 20/21 |
|---|---|---|---|---|---|---|
| **Fund Balance - July 1** | **$ 477,627** | **$ 607,213** | **$ 722,106** | **$ 1,190,266** | | **$ 609,649** |
| **REVENUES:** | | | | | | |
| Sewer Facility Reserve Buy In - Fees Collected | 127,008 | 111,218 | 517,676 | 188,897 | | 643,818 |
| **Other Revenue:**<br>Interest Earnings | 2,578 | 3,675 | 32,796 | 40,487 | | 315 |
| **Transfers-In:** | | | | | | |
| **Total Revenues:** | **129,586** | **114,893** | **550,472** | **229,383** | | **644,133** |
| **EXPENDITURES:** | | | | | | |
| **Project Expenditures:**<br>Sewer Line Replacement East of Loveridge | | | 82,312 | | | |
| **Transfers - Out:**<br>Transfer-Out to Sewer Operating - Sewer Rehab | | | | 810,000 | | 235,000 |
| **Total Expenditures:** | **-** | **-** | **82,312** | **810,000** | | **235,000** |
| | | | | | | |
| **Revenues Over/Under Expenditures:** | **129,586** | **114,893** | **468,160** | **(580,617)** | | **409,133** |
| | | | | | | |
| **Fund Balance - June 30** | **$ 607,213** | **$ 722,106** | **$ 1,190,266** | **$ 609,649** | * | **$ 1,018,782** |

There have been no fee refunds to-date.

The description of this fee and fee amounts collected prior to August 20, 2005 are attached per Resolution No. 97-8495.

The description of this fee and fee amounts collected on or after August 20,2005 are attached per Resolution No. 05-10291.

Revised fee amounts are attached per Resolution No. 05-10372

*Fees have been programmed for the Highway 4 Trunk Line Relief Project ($133,113). Fees have also been programmed for the CCTV/Inspection/Sewer Rehab project ($460,000), Montezuma Pump Station Replacement ($585,000)

| Sewer Facility Reserve Fees - Hwy 4 Trunk Line<br>Revenues and Expenditures - Fund 523<br>FY16/17 - FY20/21 | FY 16/17 | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
|---|---|---|---|---|---|
| **Fund Balance - July 1** | $ 17,355 | $ 20,166 | $ 20,276 | $ 21,818 | $ 22,472 |
| **REVENUES:** | | | | | |
| SFR-Pipe - Fees Collected | 5,593 | | 872 | | 11,568 |
| **Other Revenue:** | | | | | |
| Interest Earnings | 83 | 110 | 670 | 654 | 75 |
| **Transfers-In:** | | | | | |
| **Total Revenues:** | **5,676** | **110** | **1,542** | **654** | **11,643** |
| **EXPENDITURES:** | | | | | |
| **Project Expenditures:** | | | | | |
| Reimbursment - prior year revenue [1] | 2,865 | | | | |
| **Transfers - Out:** | | | | | |
| **Total Expenditures:** | **2,865** | **-** | **-** | **-** | **-** |
| | | | | | |
| **Revenues Over/Under Expenditures:** | **2,811** | **110** | **1,542** | **654** | **11,643** |
| | | | | | |
| **Fund Balance - June 30** | $ 20,166 | $ 20,276 | $ 21,818 | $ 22,472 | $ 34,114 |

[1] A developer refund was made in 2016/17 - for reimbursement of Sanitary Sewer Video costs.

The description of this fee and fee amounts are attached per Resolution No. 05-10291 dated June 20, 2005.
Revised fee amounts are attached per Resolution No. 12-11778 dated 02/21/12.

These fees will be used to fund the increase in size for the Highway 4 Sewer Trunk Line to serve new development.

Funds in the amount of $200,000 for the Hwy 4 Trunk Line Relief project are payable to fund 522 Sewer Facility Reserve Buy-In fund when revenue receipts are sufficient.

# MINUTE ORDER/REPORT CERTIFICATION

State of California
County of Contra Costa
City of Pittsburg

I, Alice E. Evenson, City Clerk in and for said City Council, City of Pittsburg, County of Contra Costa, State of California, do hereby certify that the hereto attached and foregoing document is a full, true and correct copy of the Minute Order, on file in this office of said City. This Minute Order was approved at a regular meeting of the City Council of the City of Pittsburg on _____, 2021 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

WITNESS, my hand, and Official Seal
this _____ day of _____, 2021

Alice E. Evenson
City Clerk

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution Approving the Terms and Conditions of Employment for Employees in the Teamsters Union, Local 856 for the Period July 1, 2021, through June 30, 2022

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

The Memorandums of Understanding between the City of Pittsburg and the Teamsters Union, Local 856 expired on June 30, 2021. The City and Teamsters Union representatives started negotiation sessions in March 2021 to develop a successor Memorandum of Understanding (MOU) and have reached a tentative agreement on the terms and conditions of employment for fiscal year 2021-2022 that provides for a one-year contract term, two-point five percent (2.5%) cost of living adjustment (COLA), one-thousand-dollar ($1,000.00) lump sum payment, and specific revisions to certain articles of the MOU to be amended. Should the City Council approve these terms, staff will prepare a successor MOU that incorporates the agreed upon changes.

## FISCAL IMPACT

The total net cost of the compensation package is $222,781 over the one-year contract.

The additional costs for Fiscal Year 2021-2022 will come from the existing approved budget and funding will be incorporated into the City's future annual budgets.

## RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving the November 15, 2021, tentative agreement, authorizing the City Manager to prepare and execute a successor MOU between the City of Pittsburg and Teamsters Union for the period of July 1, 2021, through June 30, 2022.

## BACKGROUND

In the midst of the COVID-19 pandemic and subsequent economic impacts, the City's fiscal uncertainty has severely limited its ability to achieve long-term agreements on compensation matters with its employee bargaining units.

Teamsters Union unit members are deeply committed to providing a level of excellence in public service and responding effectively and efficiently to the needs of this community. While the City's ability to effectively recruit and retain qualified employees is related to the quality of the total compensation package offered, the City and Teamsters Union also recognize that recent unprecedented financial challenges and long-term fiscal uncertainty call for a one-year term agreement.

The City and Teamsters Union representatives started meeting in March 2021 to negotiate a successor MOU. During the parties' negotiation sessions, a number of tentative agreements were reached for a one-year contract with a 2.5% COLA, $1,000 lump sum payment, and amendments to language of the MOU.

The Teamsters membership ratified the parameters of the tentative agreement package on November 16, 2021. For additional details and changes to terms and conditions of employment, please refer to the Staff Analysis section of this report and Exhibit A – Tentative Agreements between the City of Pittsburg and the Teamsters Union bargaining unit.

## SUBCOMMITTEE FINDINGS

This item was not reviewed by a subcommittee.

## STAFF ANALYSIS

In accordance with the Meyers-Milias-Brown Act, the City Council is asked to approve the terms and conditions of employment for employees in Teamsters Union for the period July 1, 2021, through June 30, 2022.

The terms and conditions of the tentative agreement include the following amendments to the draft MOU:

1) Term (Section2)
2) Salaries (Section 4)
3) Certification Pay (Section 6.7)
4) Vacation Buyback (Section 7.4)
5) Disciplinary Action (Section 14)
6) Past Practice (Section 21)

For additional details of the changes agreed upon, please refer to Exhibit A – Comprehensive Tentative Agreement between the City of Pittsburg and Teamsters Union.

ATTACHMENTS: Exhibit A – Comprehensive Tentative Agreement between the City of Pittsburg and Teamsters Union
Exhibit B – Resolution

Report Prepared By: Stacy Shell, Director of Human Resources

**Comprehensive Tentative Agreement**
**2021-22 MOU**

*The following represents the Parties' Total Tentative Agreement on all issues. Any matter not specifically addressed herein is proposed to remain status quo.*

1. **Term (Section 2)**

   1 Year (Expiration: June 30, 2022)

2. **Salaries (Section 4)**

   - Option A (City 8/16/21 Proposal): 2.5% COLA and Lump Sum
     - Effective the first full pay period following July 1, 2021, the City shall provide a **two-point-five percent (2.5%)** increase to all current salary steps within the unit.
     - **$1,000** Lump Sum upon Council Adoption
     - Classification and Compensation Study

3. **Certification Pay (Section 6.7)**

   [City 7/23/21 Proposal]

4. **Vacation Buyback (Section 7.4)**

   [See Attached]

5. **Discipline (Section 14)**

   [City 6/30/21 Proposal]

6. **Past Practices (Section 21)**

   [City 6/30/21 Proposal]

All MOU provisions not referenced herein remain status quo.

FOR TEAMSTERS

Date 11/15/2021

FOR THE CITY OF PITTSBURG

Date November 15, 2021

**City Proposal on Certificate Pay**

~~[6/30/21]~~ (date is incorrect. E-mailed 7/23)

6.7 Certification Pay

The City agrees to pay an employee represented under this collective bargaining agreement special certification pay for possession of a certification that exceeds the minimum qualifications of an employee's classification in the following amount; provided, however, an employee receive the greater of either the certification pay for a single item from the following list or the combined certification pays of multiple items from the following list provided; however, that such combined certification pays shall not exceed five percent (5%) total:

A. Maintenance Worker I and Electrical Technician Apprentice ~~or Utility Technician I/II~~ shall receive two percent (2%) per month for possession of a California class A or California class B driver's license with air brake and tank endorsements;

B. Maintenance Worker I shall receive two percent (2%) per month for possession of a California Boater Safety Card and Marine Radio Operator Permit (FFC Radio Operation) certificate.

C. Maintenance Worker I shall receive two percent (2%) per month for possession of a California D-1 water distribution certificate or five percent (5%) per month for a California D-2 water distribution certificate.

D. Maintenance Worker I shall receive two percent (2%) per month for possession of a California Water Environmental Association's Collection System Maintenance grade 1 certificate or five percent (5%) per month for a California Water Environmental Association's Collection System Maintenance grade 2 certificate.

E. Maintenance Worker I shall receive five percent (5%) per month for possession of a Boats U.S. California On the Water certificate, a Cal Maritime Basic Safety certificate and an Association of Marina Industries Marina Electrical certificate.

F. Maintenance Worker II and Electrical Technician Apprentice shall receive two percent (2%) per month for possession of a D-1 water distribution certificate or five percent (5%) per month for a California D-2 water distribution certificate;

G. Maintenance Worker II – Facilities & Utilities and Electrical Technician Apprentice shall receive eight percent (8%) per month for possession of a D-3 water distribution certificate;

H. Maintenance Worker II and Electrical Technician Apprentice shall receive two percent (2%) per month for possession of a California Water Environmental Association's Collection System Maintenance grade 2 certificate or five percent (5%) per month for a California Water Environmental Association's Collection System Maintenance grade 3 certificate.

I. Maintenance Worker II shall receive two percent (2%) per month for possession of a Boats U.S. California On the Water certificate, a Cal Maritime Basic Safety certificate and an Association of Marina Industries Marina Electrical certificate.

J. Equipment Mechanic, Lead Electrical Technician, and Electrical Technician ~~Electricians~~ shall receive one percent (1%) per month for possession of a California D-1 water distribution certificate.

K. Maintenance Lead Worker, Equipment Mechanic, Lead Electrical Technician, and Electrical Technician ~~Electricians~~ shall receive two percent (2%) per month for possession of a California D-2 water distribution certificate.

L. Maintenance Lead Worker, Equipment Mechanic, Lead Electrical Technician, and and Electrical Technician ~~Electricians~~ shall receive five percent (5%) per month for possession of a California D-3 water distribution certificate.

M. Maintenance Lead Worker – Facilities & Utilities, Equipment Mechanic, Lead Electrical Technician, and Electrical Technician ~~Electricians~~ shall receive eight percent (8%) per month for possession of a California D-4 water distribution certificate.

N. Maintenance Lead Worker shall receive two percent (2%) per month for possession of a California Water Environmental Association's Collection System Maintenance grade 3 certificate.

O. An employee who is certified and authorized by the City Manager or designee to train other City employees on the proper use of a front end loader, skid steer loader and a backhoe shall receive two percent (2%) per month.

P. An employee who is certified and authorized by the City Manager or designee to train other city employees on the proper use of a narrow isle forklift, lift truck, and powered pallet jack shall receive two percent (2%) per month.

Q. Water Quality Analyst I/II shall receive two percent (2%) per month for possession of California D-1 water distribution certificate or five percent (5%) per month for possession of a California D-2 water distribution certificate. ~~five percent (5%) per month when assigned designation of Water Treatment Plant Lab Director~~.

R. An employee who possesses an Underground Storage Tank and/or Pipeline and Hazardous Materials Safety Administration Qualified Evaluator certificate and is authorized by the City Manager, or designee, to provide, and does so perform, the daily, monthly, and other assigned functions as assigned shall receive a two percent (2%) incentive per month of their base salary.

S. A Water Plant Operator, Grade 3, Water Instrument Maintenance Technician I/II, and Water Maintenance Mechanic I/II shall receive two percent (2%) ~~one percent (1%)~~ per month for possession of California D-1 water distribution certificate and five percent (5%) ~~two percent (2%)~~ per month for possession of a California D-2 water distribution certificate.

T. The Electrical Technician and Lead Electrical Technician shall receive two percent (2%) per month for possession of Type 1 EPA certificate or three percent (3%) per month for possession of a Type II EPA certificate or four percent (4%) for Type III EPA certificate or five percent (5%) for a Universal EPA certificate from the Environmental Protection Agency.

6.8 Class A/B License Trainer

An employee who provides commercial vehicle driver training to other City employees shall receive a 2% incentive of their base salary.

6.9 Calculation of Step Placement Upon Promotion

Upon promotion to a higher classification, an employee receiving certification pay in the lower classification which is not available in the higher classification shall have the certification pay calculated as base pay for purposes of step placement in the higher classification's pay range. If the certification pay is available in both the current classification and the higher classification, the certification pay in both classifications shall be considered for purposes of step placement in the higher classification's pay range.

**City Proposal on Vacation Sellback**
[10/11/21]

*The following proposal is intended to address a potential constructive receipt issue.*

**SECTION 7 – VACATION**

7.4 Vacation Buyback

a) Employees may receive vacation pay in lieu of paid time off, subject to the following limitations. Buyback shall only be made at the request of the employee and upon the approval of the City Manager. Approvals will be granted if it is determined that "buyback" will result in increased cost-effectiveness and efficiency to the City as determined by the City Manager. ~~Employees are only eligible for one such approval in a twelve (12) month period and only one ( 1) buyback per fiscal year.~~

~~Each vacation buyback shall be limited to~~ Employees may elect to sell back a maximum of eighty (80) hours of vacation per calendar year. ~~and will be at the employee's regular rate of pay.~~ Employees desiring to sell back vacation must file an irrevocable election identifying the number of Vacation Leave hours they will sell back in November (November 1-21) of the tax year preceding the sell back. The election will apply only to Vacation Leave hours accrued in the following tax year and the employee may elect that the pay-out occur in either the last full pay period in September or the first full pay period in December. Employees who do not pre-designate a sell back amount by the annual deadline will be deemed to have waived the right to sell back any Vacation Leave in the following tax year and will not be eligible to sell back Vacation Leave in that year. Vacation hours bought back shall be paid at the employee's normal hourly rate of pay at the time of the buyback, excluding any enhancements such as out of class pay. The City Manager may authorize buyback in excess of the eighty (80) hour limit in urgent and/or emergency situations.

Effective July 1, 2014 the total City-wide allocation for the buyback program will be one hundred and sixty thousand dollars ($160,000) per fiscal year. The City shall establish an annual window period for the receipt of vacation buyback requests (November 1 - 21). At the conclusion of the window period, the City will tabulate the total dollar value of the buyback requests. If the total dollar value is less than or equal to one hundred and sixty thousand dollars ($160,000.00) employee will receive, upon the City Manager's approval, payment as noted above. If the total dollar value of the requests exceeds one hundred and sixty thousand dollars ($160,000.00), request hours will be pro-rated and employees paid accordingly. ~~(Payment shall be made with the first paycheck of December.)~~ Should this occur, employee will be credited with vacation hours in excess of those hours determined eligible for the buyback program.

To the extent permitted by law, and so long as there is no negative impact on the Plan's qualified status, individual employees may elect to have payouts of Vacation leave deposited directly into the City's Deferred Compensation Plan. If the employee does not so elect or if the funds cannot lawfully be deposited into the employee's Deferred Compensation account (e.g., if they would exceed the maximum contribution), the payout will be included in the employee's paycheck for the applicable pay period.

b) The prior-year pre-election requirement set forth in subdivision (a) will be effective for vacation payouts occurring in Calendar Year 2022 and later. For 2021 only, employees will be permitted to file two elections: (1) the first for payout of vacation in December of 2021 and (2) the second for payout of vacation in Calendar Year 2022.

**City Proposal on Disciplinary Action**
[6/30/21]

*The following proposal is intended to update the language regarding delivery of disciplinary notices.*

## SECTION 14 – DISCIPLINARY ACTION

14.1 Disciplinary Action

Supervisors shall be vested with the powers to discipline employees of the department or work unit, and for cause, may discipline up to a written reprimand. In emergency situations supervisors may relieve employees of their duties, pending further action by a department head.

Department Heads shall be vested with the powers to discipline employees of the department or work unit, and for cause, may discipline up to dismissal from employment.

The City Manager shall be vested with the powers to discipline employees, and for cause, may discipline up to dismissal from employment.

Any proposed disciplinary action greater than a written reprimand requires prior consultation with the Human Resources Director.

The employee shall have the right to request a shop steward, another employee or bargaining unit representative be present when the employee is called into a meeting that he/she reasonably believes could result in disciplinary action, or where the purpose of the meeting is to propose or impose discipline, or where the purpose of the meeting is to appeal disciplinary action as provided within this section. The City shall send a copy of all disciplinary correspondence to a Union person authorized to receive notices on behalf of the Union (hereinafter called "Union Official")..

Any employee disciplined shall be immediately notified in writing of such charges or actions, by personal service, via e-mail at the address on file with the City, or U.S. Postal Service mail (or equivalent)~~(with at least mail delivery confirmation) or delivery in person~~. Any employee aggrieved by such action may utilize the Disciplinary Action Appeal Procedure as hereinafter set forth, as a means of appeal from such by the City.

Any time limit described in the appeal procedures may be extended only by mutual agreement in writing. Failure by the employee or the employee's representative to initiate or appeal within the prescribed time limits shall waive the right of the employee and the employee's representative from appealing the discipline. In the case of an appeal, the City's last answer shall be final and conclusive. The failure of the City to respond to an appeal within the prescribed time limits shall be cause for the employee to automatically appeal the discipline to the next step. For purposes of determining receipt

under this section, e-mails will be deemed received at the time and date they are sent. However, if the receiving party or parties can demonstrate that the e-mail was not received or could not reasonably have been reviewed, the response timeline will be tolled until the circumstances preventing review have ended. [For example, the City serves a disciplinary notice on Employee A and the Union Representative on Day 1. However, both Employee A and the Union Representative are on separate Vacations on Day 1. Employee A returns on Day 3 and the Union Representative returns on Day 2. The response timeline starts on Day 2 instead of Day 1.]

**14.2 Disciplinary Action Appeal Procedure for Written Reprimands**

For all employees, written reprimands may be appealed to the City Manager within seven (7) days of receipt of disciplinary action. The City Manager or designee (other than the supervisor and/or department head involved) shall review the circumstances and render a written decision within fourteen (14) days upon receipt of the disciplinary action appeal. The decision of the City Manager or designee shall be final and conclusive.

In the event the City Manager issued the written reprimand, then opportunity to utilize the "City Manager Appeal" shall still apply.

**14.3 Disciplinary Action Appeal Procedure for Non-Written Reprimands**

No disciplinary action against an employee, excluding probationary and other at-will employees, shall be imposed unless such action is recommended by the City in a Notice of Proposed Disciplinary Action delivered to the employee either personally, via e-mail at the address on file with the City, or by U.S. Postal Service mail (or equivalent) ~~(with at least mail delivery confirmation)~~ and shall contain the following:

[. . .]

**City Proposal on Past Practices**
[6/30/21]

*The following proposal is intended to delete outdated language.*

~~**SECTION 21. PAST PRACTICES**~~

~~The continuation of working conditions and past practices not specifically contained in this Memorandum of Understanding is not guaranteed by this Agreement. Nonetheless, this is the first comprehensive Memorandum of Understanding to be negotiated between the City and the Union and the parties recognize that certain existing working conditions and/or past practices may have been overlooked during the negotiation of this Agreement. If, during the first one hundred eighty (180) calendar days following final approval by the City Council, either party identifies what it believes to be a working condition or a past beneficial practice that was overlooked, the parties shall meet and confer regarding such working condition or past practice. If it is mutually agreed that the practice or working condition did exist and it was overlooked, the parties will amend this Memorandum of Understanding accordingly. If the parties are unable to agree, the dispute will be resolved pursuant to the City's established impasse resolution procedures.~~

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Approving the Terms and Conditions of Employment for Employees in the Teamsters Union, Local 856 for the period of July 1, 2021, through June 30, 2022 | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, the Memorandums of Understanding between the City of Pittsburg and the Teamsters Union, Local 856 expired on June 30, 2021; and

WHEREAS, City representatives and the duly appointed representatives of Teamsters Union have met and conferred in accordance with Section 3500 et seq. of the California Government Code; and

WHEREAS, the membership of the Teamsters Union ratified the attached agreement on November 16, 2021; and

WHEREAS, the City Manager and City staff recommend the terms and conditions of the agreement to be approved by the City Council; and

WHEREAS, the City Manager and City staff will prepare a successor MOU that incorporates the agreed upon changes upon adoption of this resolution.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby approves the attached terms and conditions and directs staff to prepare a Memorandum of Understanding setting forth the terms and conditions.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Donna Mooney, City Attorney

**SUBJECT:** Adoption of a City Council Resolution Authorizing the City Manager to Execute Settlement Participation Forms, California State-Subdivision Agreements And Request Direct Payment In the Nationwide Opioid Litigation Settlement

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

A nationwide opioid litigation settlement proposal allows cities and counties to participate in the settlement. Pursuant to an intrastate allocation agreement, the City of Pittsburg could receive an annual monetary allocation for 18 years if the City chooses to participate in the settlement before January 2, 2022, and requests direct payment of the proceeds.

## FISCAL IMPACT

There is no fiscal impact to the General Fund by this action. The City of Pittsburg could receive roughly $36,000 per year for 18 years. Allocations depend on how many cities and counties choose to participate.

## RECOMMENDATION

The City Council adopt the attached resolution authorizing the City Manager to execute Settlement Participation Forms, California State-Subdivision Agreements and request direct payment in the nationwide opioid litigation settlement.

## BACKGROUND

In the past decade, communities across the country have sustained harms from opioid addiction. According to the U.S. Centers for Disease Control and Prevention, nearly 247,000 people died from overdoses involving prescription opioids nationwide from 1999 to 2019, and the economic impact of prescription opioid misuse is more than $78 billion annually. Numerous lawsuits have been filed against opioid manufacturers and distributors regarding the cause of the opioid crisis. In 2021, four companies agreed to pay out a total of $26 billion to communities to address the harms from opioid addiction and misuse. The distribution companies contributing to the settlement are McKesson Corporation, Cardinal

Health, Inc., and AmerisourceBergen Corporation. Additionally, under a separate settlement document, manufacturer Janssen is contributing to the settlement.

Within California, stakeholders have drafted intrastate allocation agreements that set forth how settlement monies would be allocated. Percentages were established based on estimated impacts to cities and counties from the harmful consequences of opioid addiction. City of Pittsburg is slated to receive the third highest amount of money of all cities within Contra Costa County.

## SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

## STAFF ANALYSIS

Of the $2.2 billion settlement money that would be available in California, 70 percent would be placed in a fund for cities and counties for abatement of opioid harms. Of the remaining 30 percent, 15 percent would be provided to the State of California (the state government) and the remaining 15 percent would be provided to those public agencies that filed lawsuits against the opioid manufacturers and distributors and incurred litigation costs.

Cities and counties in California have been notified of the opportunity to participate in the settlement, with a deadline of January 2, 2022. In exchange for participation and receipt of annual payments, the City would be required to release legal claims against the companies. Information about the settlement is at https://nationalopioidsettlement.com/.

Authorizing the City Manager to execute the participation, settlement and release documents, and request direct payment, would allow the City of Pittsburg to receive settlement money.

ATTACHMENTS: Resolution
Settlement Participation Form – Distributors
Settlement Participation Form – Janssen
Calif. State-Subdivision Agreement – Distributor
Calif. State-Subdivision Agreement - Janssen

Report Prepared By: Donna Mooney, City Attorney

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Authorizing the City Manager to Execute | ) | |
| Settlement Participation Forms, | ) | RESOLUTION NO. 21- |
| California State-Subdivision Agreements | ) | |
| And Request Direct Payment | ) | |
| In the Nationwide Opioid Litigation Settlement | ) | |

WHEREAS, according to the U.S. Centers for Disease Control and Prevention, nearly 247,000 people died from overdoses involving prescription opioids nationwide between 1999 and 2019, and misuse of prescription opioids has an economic impact of $78.5 billion annually; and

WHEREAS, the three opioid distribution companies McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation, along with the opioid manufacturing company Janssen (which includes Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc.) have agreed to contribute $26 billion to settle existing and potential litigation with public agencies regarding the causes of opioid harms on communities; and

WHEREAS, the settlement terms are set forth in the settlement agreements entitled Distributor Settlement Agreement, and Janssen Settlement Agreement, both dated July 21, 2021; and

WHEREAS, stakeholders within California have finalized terms of intrastate allocation agreements to divide the settlement proceeds from the distributors and the manufacturer, entitled the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds - Distributor Settlement, and California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds – Janssen Settlement (together “California State-Subdivision Agreements”); and

WHEREAS, many cities and counties in California have an opportunity to participate in the opioid litigation settlement by executing and submitting settlement documents by January 2, 2022; and

WHEREAS, the City seeks to participate in the settlement, and pursuant to Section 4(B)(i)(c) of the California State-Subdivision Agreements seeks to have the settlement money paid directly to the City.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby authorizes the City Manager to execute the national opioid litigation Settlement Participation Forms and California State-Subdivision Agreements and request that the settlement money be paid directly to the City of Pittsburg.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

**Settlement Participation Form**

| | |
|---|---|
| Governmental Entity: Pittsburg city | State: CA |
| Authorized Signatory: | |
| Address 1: | |
| Address 2: | |
| City, State, Zip: | |
| Phone: | |
| Email: | |

The governmental entity identified above ("Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 ("Distributor Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributor Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Distributor Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Distributor Settlement pertaining to Subdivisions as defined therein.

4. By agreeing to the terms of the Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.

5. The Governmental Entity agrees to use any monies it receives through the Distributor Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Distributor Settlement.

7. The Governmental Entity has the right to enforce the Distributor Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributor Settlement, including but not limited to all provisions of Part XI, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributor Settlement shall be a complete bar to any Released Claim.

9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributor Settlement.

10. In connection with the releases provided for in the Distributor Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

    > **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

    A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributor Settlement.

11. Nothing herein is intended to modify in any way the terms of the Distributor Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Distributor Settlement in any respect, the Distributor Settlement controls.

I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

## Settlement Participation Form

| Governmental Entity: Pittsburg city | State: CA |
|---|---|
| Authorized Signatory: | |
| Address 1: | |
| Address 2: | |
| City, State, Zip: | |
| Phone: | |
| Email: | |

The governmental entity identified above ("Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 ("Janssen Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.

4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.

5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.

7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim.

9. In connection with the releases provided for in the Janssen Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Janssen Settlement.

10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.

I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

**Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds – Distributor Settlement**

## 1. Introduction

Pursuant to the Distributor Settlement Agreement, dated as of July 21, 2021, and any revision thereto (the "Distributor Settlement Agreement"), including Section V and Exhibit O, the State of California proposes this agreement (the "CA Distributor Allocation Agreement") to govern the allocation, distribution, and use of Settlement Fund payments made to California pursuant to Sections IV and V of the Distributor Settlement Agreement.[1] For the avoidance of doubt, this agreement does not apply to payments made pursuant to Sections IX or X of the Distributor Settlement Agreement.

Pursuant to Exhibit O, Paragraph 4, of the Distributor Settlement Agreement, acceptance of this CA Distributor Allocation Agreement is a requirement to be an Initial Participating Subdivision.

## 2. Definitions

a) *CA Participating Subdivision* means a Participating Subdivision that is also (a) a Plaintiff Subdivision and/or (b) a Primary Subdivision with a population equal to or greater than 10,000. For the avoidance of doubt, eligible CA Participating Subdivisions are those California subdivisions listed in Exhibit C (excluding Litigating Special Districts) and/or Exhibit I to the Distributor Settlement Agreement.

b) *Janssen Settlement Agreement* means the Janssen Settlement Agreement dated July 21, 2021, and any revision thereto.

c) *Litigating Special District* means a school district, fire protection district, health authority, health plan, or other special district that has filed a lawsuit against an Opioid Defendant. Litigating Special Districts include Downey Unified School District, Elk Grove Unified School District, Kern High School District, Montezuma Fire Protection District (located in Stockton, California), Santa Barbara San Luis Obispo Regional Health Authority, Inland Empire Health Plan, Health Plan of San Joaquin, and LA Care Health Plan.

d) *Plaintiff Subdivision* means a Subdivision located in California, other than a Litigating Special District, that filed a lawsuit, on behalf of the Subdivision and/or through an official of the Subdivision on behalf of the People of the State of California, against one or more Opioid Defendants prior to October 1, 2020.

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[1] A parallel but separate agreement (the "CA Janssen Allocation Agreement") will govern the allocation, distribution, and use of settlement fund payments under the Janssen Settlement Agreement. An eligible Subdivision may elect to participate in either the Distributor Settlement or the Janssen Settlement, or in both.

e) *Opioid Defendant* means any defendant (including but not limited to Johnson & Johnson, Janssen Pharmaceuticals, Inc., Purdue Pharma L.P., Cardinal Health, Inc., AmerisourceBergen Corporation, and McKesson Corporation) named in a lawsuit seeking damages, abatement, or other remedies related to or caused by the opioid public health crisis in any lawsuit brought by any state or local government on or before October 1, 2020.

## 3. General Terms

This agreement is subject to the requirements of the Distributor Settlement Agreement, as well as applicable law, and the Distributor Settlement Agreement governs over any inconsistent provision of this CA Distributor Allocation Agreement. Terms used in this CA Distributor Allocation Agreement have the same meaning as in the Distributor Settlement Agreement unless otherwise defined herein.

Pursuant to Section V(D)(1) of the Distributor Settlement Agreement, (a) all Settlement Fund payments will be used for Opioid Remediation, except as allowed by Section V(B)(2) of the Distributor Settlement Agreement; and (b) at least seventy percent (70%) of Settlement Fund payment amounts will be used solely for future Opioid Remediation.

## 4. State Allocation

The Settlement Fund payments to California,[2] pursuant to the Distributor Settlement Agreement, shall be allocated as follows: 15% to the State Fund; 70% to the Abatement Accounts Fund; and 15% to the Subdivision Fund. For the avoidance of doubt, all funds allocated to California from the Settlement Fund shall be combined pursuant to this CA Distributor Allocation Agreement, and 15% of that total shall be allocated to the State of California (the "State of California Allocation"), 70% to the California Abatement Accounts Fund ("CA Abatement Accounts Fund"), and 15% to the California Subdivision Fund ("CA Subdivision Fund").

### A. State of California Allocation

Fifteen percent of the total Settlement Fund payments will be allocated to the State and used by the State for future Opioid Remediation.

### B. CA Abatement Accounts Fund

#### i. Allocation of CA Abatement Accounts Funds

a) Seventy percent of the total Settlement Fund payments will be allocated to the CA Abatement Accounts Fund. The funds in the CA Abatement Accounts Fund will be

[2] For purposes of clarity, use of the term "California" refers to the geographic territory of California and the state and its local governments therein. The term "State" or "State of California" refers to the State of California as a governmental unit.

allocated based on the allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804), as adjusted to reflect only those cities and counties that are eligible, based on population or litigation status, to become a CA Participating Subdivision. The percentage from the CA Abatement Accounts Fund allocated to each CA Participating Subdivision is set forth in Appendix 1 in the column entitled abatement percentage (the "Local Allocation"). For the avoidance of doubt, Litigating Special Districts and California towns, cities, and counties with a population less than 10,000 are not eligible to receive an allocation of CA Abatement Accounts Funds.

b) A CA Participating Subdivision that is a county, or a city and county, will be allocated its Local Allocation share as of the date on which it becomes a Participating Subdivision, and will receive payments as provided in the Distributor Settlement Agreement.

c) A CA Participating Subdivision that is a city will be allocated its Local Allocation share as of the date on which it becomes a Participating Subdivision. The Local Allocation share for a city that is a CA Participating Subdivision will be paid to the county in which the city is located, rather than to the city, so long as: (a) the county is a CA Participating Subdivision, and (b) the city has not advised the Settlement Fund Administrator that it requests direct payment at least 60 days prior to a Payment Date. A Local Allocation share allocated to a city but paid to a county is not required to be spent exclusively for abatement activities in that city, but will become part of the county's share of the CA Abatement Accounts Funds, which will be used in accordance with Section 4.B.ii (Use of CA Abatement Accounts Funds) and reported on in accordance with Section 4.B.iii (CA Abatement Accounts Fund Oversight).

d) A city within a county that is a CA Participating Subdivision may opt in or out of direct payment at any time, and it may also elect direct payment of only a portion of its share, with the remainder going to the county, by providing notice to the Settlement Fund Administrator at least 60 days prior to a Payment Date. For purposes of this CA Distributor Allocation Agreement, the Cities of Los Angeles, Oakland, San Diego, San Jose and Eureka will be deemed to have elected direct payment if they become Participating Subdivisions.

e) The State will receive the Local Allocation share of any payment to the Settlement Fund that is attributable to a county or city that is eligible to become a CA Participating Subdivision, but that has not, as of the date of that payment to the Settlement Fund, become a Participating Subdivision.

f) Funds received by a CA Participating Subdivision, and not expended or encumbered within five years of receipt and in accordance with the Distributor Settlement Agreement and this CA Distributor Allocation Agreement shall be transferred to the State; provided however, that CA Participating Subdivisions have seven years to expend or encumber CA Abatement Accounts Funds designated to support capital outlay projects before they must be transferred to the State. This provision shall not apply to the Cost Reimbursement Funds, which shall be controlled by Appendix 2.

### ii. Use of CA Abatement Accounts Funds

a) The CA Abatement Accounts Funds will be used for future Opioid Remediation in one or more of the areas described in the List of Opioid Remediation Uses, which is Exhibit E to the Distributor Settlement Agreement.

b) In addition to this requirement, no less than 50% of the funds received by a CA Participating Subdivision from the Abatement Accounts Fund in each calendar year will be used for one or more of the following High Impact Abatement Activities:

(1) the provision of matching funds or operating costs for substance use disorder facilities within the Behavioral Health Continuum Infrastructure Program;

(2) creating new or expanded Substance Use Disorder ("SUD") treatment infrastructure;

(3) addressing the needs of communities of color and vulnerable populations (including sheltered and unsheltered homeless populations) that are disproportionately impacted by SUD;

(4) diversion of people with SUD from the justice system into treatment, including by providing training and resources to first and early responders (sworn and non-sworn) and implementing best practices for outreach, diversion and deflection, employability, restorative justice, and harm reduction; and/or

(5) interventions to prevent drug addiction in vulnerable youth.

c) The California Department of Health Care Services ("DHCS") may add to this list (but not delete from it) by designating additional High Impact Abatement Activities. DHCS will make reasonable efforts to consult with stakeholders, including the CA Participating Subdivisions, before adding additional High Impact Abatement Activities to this list.

d) For the avoidance of doubt, and subject to the requirements of the Distributor Settlement Agreement and applicable law, CA Participating Subdivisions may form agreements or ventures, or otherwise work in collaboration with, federal, state, local, tribal or private sector entities in pursuing Opioid Remediation activities funded from the CA Abatement Accounts Fund. Further, provided that all CA Abatement Accounts Funds are used for Opioid Remediation consistent with the Distributor Settlement Agreement and this CA Distributor Allocation Agreement, a county and any cities or towns within the county may agree to reallocate their respective shares of the CA Abatement Accounts Funds among themselves, provided that any direct distribution may only be to a CA Participating Subdivision and any CA Participating Subdivision must agree to their share being reallocated.

### iii. CA Abatement Accounts Fund Oversight

a) Pursuant to Section 5 below, CA Participating Subdivisions receiving settlement funds must prepare and file reports annually regarding the use of those funds. DHCS may regularly review the reports prepared by CA Participating Subdivisions about the use of CA Abatement Accounts Funds for compliance with the Distributor Settlement Agreement and this CA Distributor Allocation Agreement.

b) If DHCS determines that a CA Participating Subdivision's use of CA Abatement Accounts Funds is inconsistent with the Distributor Settlement Agreement or this CA Distributor Allocation Agreement, whether through review of reports or information from any other sources, DHCS shall send a request to meet and confer with the CA Participating Subdivision. The parties shall meet and confer in an effort to resolve the concern.

c) If the parties are unable to reach a resolution, DHCS may conduct an audit of the Subdivision's use of the CA Abatement Accounts Funds within one year of the request to meet and confer, unless the parties mutually agree in writing to extend the meet and confer time frame.

d) If the concern still cannot be resolved, the State may bring a motion or action in the court where the State has filed its Consent Judgment to resolve the concern or otherwise enforce the requirements of the Distributor Settlement Agreement or this CA Distributor Allocation Agreement. However, in no case shall any audit be conducted, or motion be brought, as to a specific expenditure of funds, more than five years after the date on which the expenditure of the funds was reported to DHCS, in accordance with this agreement.

e) Notwithstanding the foregoing, this Agreement does not limit the statutory or constitutional authority of any state or local agency or official to conduct audits, investigations, or other oversight activities, or to pursue administrative, civil, or criminal enforcement actions.

## C. CA Subdivision Fund

i. Fifteen percent of the total Settlement Fund payments will be allocated to the CA Subdivision Fund. All funds in the CA Subdivision Fund will be allocated among the Plaintiff Subdivisions that are Initial Participating Subdivisions. The funds will be used, subject to any limits imposed by the Distributor Settlement Agreement and this CA Distributor Allocation Agreement, to fund future Opioid Remediation and reimburse past opioid-related expenses, which may include fees and expenses related to litigation, and to pay the reasonable fees and expenses of the Special Master as set forth in Appendix 2.

The CA Subdivision Funds will be allocated as follows:

a) First, funds in the CA Subdivision Fund shall be used to pay the Special Master's reasonable fees and expenses in accordance with the procedures and limitations set forth in Appendix 2 to this document;

b) Second, funds will be allocated to Plaintiff Subdivisions that are Initial Participating Subdivisions that have been awarded Costs, as defined by and in accordance with the procedures and limitations set forth in Appendix 2 to this document.

c) Funds remaining in the CA Subdivision Fund, which shall consist of no less than 50% of the total CA Subdivision Fund received in any year pursuant to Appendix 2, Section 2.c.v, will be distributed to Plaintiff Subdivisions that are Initial Participating Subdivisions, in relative proportion to the Local Allocation. These funds shall be used to fund future opioid-related projects and to reimburse past opioid-related expenses, which may include fees and expenses related to litigation against any Opioid Defendant.

### D. Provision for State Back-Stop Agreement

On August 6, 2021, Judge Dan Polster of the U.S. District Court, Northern District of Ohio, Eastern Division, issued an order (ECF Docket Number 3814) ("MDL Fees Order") in the National Prescription Opiate Litigation (MDL No. 2804) "cap[ping] all applicable contingent fee agreements at 15%." Private counsel representing Plaintiff Subdivisions should seek its contingency fees and costs from the Attorney Fee Fund or Cost Funds under the Distributor Settlement Agreement and, if applicable, the Janssen Settlement Agreement.

A Plaintiff Subdivision may separately agree to use its share of the CA Subdivision Fund to pay for fees or costs incurred by its contingency-fee counsel ("State Back-Stop Agreement"), pursuant to Exhibit R, section I(R), of the Distributor Settlement Agreement and the MDL Fees Order, so long as such contingency fees do not exceed a total contingency fee of 15% of the total gross recovery of the Plaintiff Subdivision pursuant to the Distributor Settlement, and if applicable, the Janssen Settlement, inclusive of contingency fees from the national Attorney Fee Fund and this State Back-Stop Agreement. Before seeking fees or litigation costs and expenses from a State Back-Stop Agreement, private counsel representing Plaintiff Subdivisions must first seek contingency fees and costs from the Attorney Fee Fund or Cost Funds created under the Distributor Settlement Agreement and, if applicable, the Janssen Settlement Agreement. Further, private counsel may only seek reimbursement for litigation fees and costs that have not previously been reimbursed through prior settlements or judgments.

To effectuate a State Back-Stop Agreement pursuant to this section, an agreement in the form of Appendix 3 may be entered into by a Plaintiff Subdivision, private counsel, and the California Office of the Attorney General. The California Office of the Attorney General shall, upon the request of a Plaintiff Subdivision, execute any agreement executed by a Plaintiff Subdivision and its private counsel if it is in the form of Appendix 3. The California Office of the Attorney

General will also consider requests from Plaintiff Subdivisions to execute and enter into agreements presented in other forms.

For the avoidance of doubt, this agreement does not require a Plaintiff Subdivision to request or enter into a State Back-Stop Agreement, and no State Back-Stop Agreement shall impose any duty or obligation on the State of California or any of its agencies or officers, including without limitation the Attorney General.

**5. State and Subdivision Reporting**

a) DHCS will prepare an annual written report regarding the State's use of funds from the settlement until those funds are fully expended and for one year thereafter. These reports will be made publicly available on the DHCS web site.

b) Each CA Participating Subdivision that receives payments of funds from the settlement will prepare written reports at least annually regarding the use of those funds, until those funds are fully expended and for one year thereafter. These reports will also include a certification that all funds that the CA Participating Subdivision has received through the settlement have been used in compliance with the Distributor Settlement Agreement and this CA Distributor Allocation Agreement. The report will be in a form reasonably determined by DHCS. Prior to specifying the form of the report DHCS will confer with representatives of the Plaintiff Subdivisions.

c) The State and all CA Participating Subdivisions receiving CA Abatement Accounts Funds will track all deposits and expenditures. Each such subdivision is responsible solely for the CA Abatement Accounts Funds it receives. A county is not responsible for oversight, reporting, or monitoring of CA Abatement Accounts Funds received by a city within that county that receives direct payment. Unless otherwise exempt, Subdivisions' expenditures and uses of CA Abatement Accounts Funds and other Settlement Funds will be subject to the normal budgetary and expenditure process of the Subdivision.

d) Each Plaintiff Subdivision receiving CA Subdivision Funds will track all deposits and expenditures, as required by the Distributor Settlement Agreement and this CA Distributor Allocation Agreement. Among other things, Plaintiff Subdivisions using monies from the CA Subdivision Fund for purposes that do not qualify as Opioid Remediation must identify and include in their annual report, the amount and how such funds were used, including if used to pay attorneys' fees, investigation costs, or litigation costs. Pursuant to Section V(B)(2) of the Distributor Settlement Agreement, such information must also be reported to the Settlement Fund Administrator and the Distributors.

e) In each year in which DHCS prepares an annual report DHCS will also host a meeting to discuss the annual report and the Opioid Remediation activities being carried out by the State and Participating Subdivisions.

## 6. Miscellaneous

a) The State or any CA Participating Subdivision may bring a motion or action in the court where the State has filed its Consent Judgment to enforce the requirements of this CA Distributor Allocation Agreement. Before filing such a motion or action the State will meet and confer with any CA Participating Subdivision that is the subject of the anticipated motion or action, and vice versa.

b) Except as provided in the Distributor Settlement Agreement, this CA Distributor Allocation Agreement is not enforceable by any party other than the State and the CA Participating Subdivisions. It does not confer any rights or remedies upon, and shall not be enforceable by, any third party.

c) Except as provided in the CA Distributor Allocation Agreement, if any provision of this agreement or the application thereof to any person, entity, or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this agreement, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, and each other provision of this agreement will be valid and enforceable to the fullest extent permitted by law.

d) Except as provided in the Distributor Settlement Agreement, this agreement shall be governed by and interpreted in accordance with the laws of California.

APPENDIX 1

**DISCLAIMER**: The allocation percentages herein are estimates only and should not be relied on for decisions regarding legal rights, releases, waivers, or other decisions affecting current or potential legal claims. Percentages shown in the Plaintiff Subdivision Percentage column may change pursuant to Section 4.C. of the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds—Distributor Settlement, whereas the percentages shown in the Abatement Percentage column should not change. Participating Subdivisions, underlying calculations, and the calculated allocation percentages are subject to change. Regarding the column herein entitled "Abatement Percentage," pursuant to Section 4.B.e., the State of California will receive the Local Allocation share of any payment to the Settlement Fund that is attributable to a county or city that is eligible to become a CA Participating Subdivision, but that has not, as of the date of that payment to the Settlement Fund, become a Participating Subdivision. Regarding the column herein entitled "Plaintiff Subdivision Percentage," payments allocated to a Plaintiff Subdivision, which is not an Initial Participating Subdivision, will be re-allocated among the Plaintiff Subdivisions that are Initial Participating Subdivisions. Regarding the column herein entitled "Abatement Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the California Abatement Account Funds received, pursuant to Section 4.B. Regarding the column herein entitled "Plaintiff Subdivision Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the California Subdivision Funds received, pursuant to Section 4.C. Regarding the column herein entitled "Weighted Allocation Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the combined and weighted allocation of the Abatement Percentage and the Plaintiff Subdivision Percentage.

APPENDIX 1

| | | | 100.000% | 100.000% | 100.000% |
|---|---|---|---|---|---|
| **Participating Subdivision Classification** | **Participating Subdivision** | **County** | **Abatement Percentage** | **Plaintiff Subdivision Percentage** | **Weighted Allcation Percentage** |
| County | ***Alameda County*** | Alameda | 2.332% | 2.853% | **2.4237952%** |
| City | Alameda | Alameda | 0.069% | | **0.0570162%** |
| City | Albany | Alameda | 0.013% | | **0.0107768%** |
| City | Berkeley | Alameda | 0.152% | | **0.1249656%** |
| City | Dublin | Alameda | 0.033% | 0.040% | **0.0338810%** |
| City | Emeryville | Alameda | 0.023% | | **0.0185765%** |
| City | Fremont | Alameda | 0.108% | | **0.0888576%** |
| City | Hayward | Alameda | 0.117% | | **0.0966218%** |
| City | Livermore | Alameda | 0.054% | | **0.0446740%** |
| City | Newark | Alameda | 0.026% | | **0.0217626%** |
| City | Oakland | Alameda | 0.486% | 0.595% | **0.5055601%** |
| City | Piedmont | Alameda | 0.014% | | **0.0114064%** |
| City | Pleasanton | Alameda | 0.067% | | **0.0554547%** |
| City | San Leandro | Alameda | 0.039% | | **0.0321267%** |
| City | Union City | Alameda | 0.043% | | **0.0352484%** |
| County | ***Amador County*** | Amador | 0.226% | 0.277% | **0.2349885%** |
| County | ***Butte County*** | Butte | 1.615% | 1.975% | **1.6783178%** |
| City | Chico | Butte | 0.216% | 0.264% | **0.2246499%** |
| City | Oroville | Butte | 0.079% | | **0.0646595%** |
| County | ***Calaveras County*** | Calaveras | 0.226% | 0.277% | **0.2351644%** |
| County | ***Colusa County*** | Colusa | 0.059% | | **0.0489221%** |
| County | ***Contra Costa County*** | Contra Costa | 2.102% | 2.571% | **2.1844585%** |
| City | Antioch | Contra Costa | 0.037% | | **0.0301879%** |
| City | Brentwood | Contra Costa | 0.026% | | **0.0215339%** |
| City | Clayton | Contra Costa | 0.002% | | **0.0018060%** |
| City | Concord | Contra Costa | 0.055% | | **0.0456676%** |
| City | Danville | Contra Costa | 0.010% | | **0.0082255%** |
| City | El Cerrito | Contra Costa | 0.023% | | **0.0189024%** |
| City | Hercules | Contra Costa | 0.010% | | **0.0078273%** |

APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Lafayette | Contra Costa | 0.006% | | **0.0046030%** |
| City | Martinez | Contra Costa | 0.012% | | **0.0098593%** |
| City | Moraga | Contra Costa | 0.004% | | **0.0031007%** |
| City | Oakley | Contra Costa | 0.010% | | **0.0079416%** |
| City | Orinda | Contra Costa | 0.005% | | **0.0038157%** |
| City | Pinole | Contra Costa | 0.013% | | **0.0110909%** |
| City | Pittsburg | Contra Costa | 0.053% | | **0.0436369%** |
| City | Pleasant Hill | Contra Costa | 0.013% | | **0.0106309%** |
| City | Richmond | Contra Costa | 0.146% | | **0.1201444%** |
| City | San Pablo | Contra Costa | 0.018% | | **0.0148843%** |
| City | San Ramon | Contra Costa | 0.021% | | **0.0176459%** |
| City | Walnut Creek | Contra Costa | 0.026% | | **0.0212132%** |
| County | ***Del Norte County*** | Del Norte | 0.114% | 0.140% | **0.1189608%** |
| County | ***El Dorado County*** | El Dorado | 0.768% | 0.939% | **0.7980034%** |
| City | Placerville | El Dorado | 0.015% | | **0.0127642%** |
| City | South Lake Tahoe | El Dorado | 0.081% | | **0.0665456%** |
| County | ***Fresno County*** | Fresno | 1.895% | 2.318% | **1.9693410%** |
| City | Clovis | Fresno | 0.065% | | **0.0536211%** |
| City | Coalinga | Fresno | 0.012% | | **0.0098554%** |
| City | Fresno | Fresno | 0.397% | | **0.3270605%** |
| City | Kerman | Fresno | 0.005% | | **0.0042534%** |
| City | Kingsburg | Fresno | 0.008% | | **0.0066167%** |
| City | Mendota | Fresno | 0.002% | | **0.0019387%** |
| City | Orange Cove | Fresno | 0.004% | | **0.0035607%** |
| City | Parlier | Fresno | 0.008% | | **0.0069755%** |
| City | Reedley | Fresno | 0.012% | | **0.0098804%** |
| City | Sanger | Fresno | 0.018% | | **0.0146135%** |
| City | Selma | Fresno | 0.015% | | **0.0127537%** |
| County | ***Glenn County*** | Glenn | 0.107% | 0.131% | **0.1116978%** |
| County | ***Humboldt County*** | Humboldt | 1.030% | 1.260% | **1.0703185%** |

APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Arcata | Humboldt | 0.054% | | **0.0447660%** |
| City | Eureka | Humboldt | 0.117% | 0.143% | **0.1216284%** |
| City | Fortuna | Humboldt | 0.032% | | **0.0266837%** |
| County | ***Imperial County*** | Imperial | 0.258% | 0.315% | **0.2679006%** |
| City | Brawley | Imperial | 0.011% | | **0.0087986%** |
| City | Calexico | Imperial | 0.019% | | **0.0152799%** |
| City | El Centro | Imperial | 0.158% | | **0.1302522%** |
| City | Imperial | Imperial | 0.006% | | **0.0048791%** |
| County | ***Inyo County*** | Inyo | 0.073% | 0.089% | **0.0754413%** |
| County | ***Kern County*** | Kern | 2.517% | 3.079% | **2.6159145%** |
| City | Arvin | Kern | 0.006% | | **0.0046425%** |
| City | Bakersfield | Kern | 0.212% | | **0.1747198%** |
| City | California City | Kern | 0.009% | | **0.0070820%** |
| City | Delano | Kern | 0.030% | | **0.0249316%** |
| City | McFarland | Kern | 0.003% | | **0.0025644%** |
| City | Ridgecrest | Kern | 0.015% | | **0.0120938%** |
| City | Shafter | Kern | 0.013% | | **0.0103417%** |
| City | Tehachapi | Kern | 0.009% | | **0.0073580%** |
| City | Wasco | Kern | 0.008% | | **0.0069861%** |
| County | ***Kings County*** | Kings | 0.293% | | **0.2413469%** |
| City | Avenal | Kings | 0.007% | | **0.0056335%** |
| City | Corcoran | Kings | 0.013% | | **0.0107032%** |
| City | Hanford | Kings | 0.027% | | **0.0226038%** |
| City | Lemoore | Kings | 0.016% | | **0.0131900%** |
| County | ***Lake County*** | Lake | 0.795% | | **0.6545389%** |
| City | Clearlake | Lake | 0.041% | 0.050% | **0.0426253%** |
| City | Lakeport | Lake | 0.021% | 0.026% | **0.0222964%** |
| County | ***Lassen County*** | Lassen | 0.319% | 0.391% | **0.3320610%** |
| City | Susanville | Lassen | 0.027% | | **0.0219295%** |
| County | ***Los Angeles County*** | Los Angeles | 13.896% | 16.999% | **14.4437559%** |

APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Agoura Hills | Los Angeles | 0.005% | | **0.0040024%** |
| City | Alhambra | Los Angeles | 0.042% | | **0.0343309%** |
| City | Arcadia | Los Angeles | 0.033% | | **0.0267718%** |
| City | Artesia | Los Angeles | 0.001% | | **0.0005100%** |
| City | Azusa | Los Angeles | 0.026% | | **0.0210857%** |
| City | Baldwin Park | Los Angeles | 0.027% | | **0.0218520%** |
| City | Bell | Los Angeles | 0.008% | | **0.0068783%** |
| City | Bellflower | Los Angeles | 0.002% | | **0.0014485%** |
| City | Bell Gardens | Los Angeles | 0.014% | | **0.0114301%** |
| City | Beverly Hills | Los Angeles | 0.065% | | **0.0534897%** |
| City | Burbank | Los Angeles | 0.100% | | **0.0823132%** |
| City | Calabasas | Los Angeles | 0.006% | | **0.0048948%** |
| City | Carson | Los Angeles | 0.019% | | **0.0159805%** |
| City | Cerritos | Los Angeles | 0.005% | | **0.0039682%** |
| City | Claremont | Los Angeles | 0.010% | | **0.0082584%** |
| City | Commerce | Los Angeles | 0.000% | | **0.0002971%** |
| City | Compton | Los Angeles | 0.044% | | **0.0361882%** |
| City | Covina | Los Angeles | 0.028% | | **0.0229127%** |
| City | Cudahy | Los Angeles | 0.001% | | **0.0006020%** |
| City | Culver City | Los Angeles | 0.055% | | **0.0449894%** |
| City | Diamond Bar | Los Angeles | 0.001% | | **0.0006993%** |
| City | Downey | Los Angeles | 0.052% | | **0.0429994%** |
| City | Duarte | Los Angeles | 0.003% | | **0.0027261%** |
| City | El Monte | Los Angeles | 0.031% | 0.038% | **0.0318985%** |
| City | El Segundo | Los Angeles | 0.033% | | **0.0268020%** |
| City | Gardena | Los Angeles | 0.034% | | **0.0278088%** |
| City | Glendale | Los Angeles | 0.166% | | **0.1366586%** |
| City | Glendora | Los Angeles | 0.016% | | **0.0134411%** |
| City | Hawaiian Gardens | Los Angeles | 0.005% | | **0.0040549%** |
| City | Hawthorne | Los Angeles | 0.050% | | **0.0407833%** |

APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Hermosa Beach | Los Angeles | 0.018% | | **0.0145307%** |
| City | Huntington Park | Los Angeles | 0.023% | | **0.0190667%** |
| City | Inglewood | Los Angeles | 0.059% | | **0.0489195%** |
| City | La Cañada Flintridge | Los Angeles | 0.003% | | **0.0025565%** |
| City | Lakewood | Los Angeles | 0.005% | | **0.0039971%** |
| City | La Mirada | Los Angeles | 0.010% | | **0.0081572%** |
| City | Lancaster | Los Angeles | 0.045% | | **0.0369689%** |
| City | La Puente | Los Angeles | 0.002% | | **0.0012999%** |
| City | La Verne | Los Angeles | 0.024% | | **0.0194190%** |
| City | Lawndale | Los Angeles | 0.002% | | **0.0017731%** |
| City | Lomita | Los Angeles | 0.004% | | **0.0031940%** |
| City | Long Beach | Los Angeles | 0.439% | | **0.3614151%** |
| City | Los Angeles | Los Angeles | 2.715% | 3.321% | **2.8218811%** |
| City | Lynwood | Los Angeles | 0.016% | | **0.0134345%** |
| City | Malibu | Los Angeles | 0.002% | | **0.0019269%** |
| City | Manhattan Beach | Los Angeles | 0.032% | | **0.0260686%** |
| City | Maywood | Los Angeles | 0.004% | | **0.0035528%** |
| City | Monrovia | Los Angeles | 0.031% | | **0.0254455%** |
| City | Montebello | Los Angeles | 0.030% | | **0.0250670%** |
| City | Monterey Park | Los Angeles | 0.031% | | **0.0256677%** |
| City | Norwalk | Los Angeles | 0.031% | | **0.0258228%** |
| City | Palmdale | Los Angeles | 0.046% | | **0.0375827%** |
| City | Palos Verdes Estates | Los Angeles | 0.006% | | **0.0053102%** |
| City | Paramount | Los Angeles | 0.011% | | **0.0091483%** |
| City | Pasadena | Los Angeles | 0.146% | | **0.1200524%** |
| City | Pico Rivera | Los Angeles | 0.022% | | **0.0183333%** |
| City | Pomona | Los Angeles | 0.111% | | **0.0911933%** |
| City | Rancho Palos Verdes | Los Angeles | 0.002% | | **0.0012645%** |
| City | Redondo Beach | Los Angeles | 0.062% | | **0.0506992%** |
| City | Rosemead | Los Angeles | 0.003% | | **0.0028260%** |

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APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | San Dimas | Los Angeles | 0.003% | | **0.0022016%** |
| City | San Fernando | Los Angeles | 0.013% | | **0.0104837%** |
| City | San Gabriel | Los Angeles | 0.018% | | **0.0147726%** |
| City | San Marino | Los Angeles | 0.009% | | **0.0073791%** |
| City | Santa Clarita | Los Angeles | 0.022% | | **0.0178167%** |
| City | Santa Fe Springs | Los Angeles | 0.031% | | **0.0257531%** |
| City | Santa Monica | Los Angeles | 0.158% | | **0.1298513%** |
| City | Sierra Madre | Los Angeles | 0.006% | | **0.0048646%** |
| City | Signal Hill | Los Angeles | 0.010% | | **0.0084884%** |
| City | South El Monte | Los Angeles | 0.005% | | **0.0039603%** |
| City | South Gate | Los Angeles | 0.020% | | **0.0166272%** |
| City | South Pasadena | Los Angeles | 0.012% | | **0.0095334%** |
| City | Temple City | Los Angeles | 0.005% | | **0.0039498%** |
| City | Torrance | Los Angeles | 0.112% | | **0.0919820%** |
| City | Walnut | Los Angeles | 0.006% | | **0.0047305%** |
| City | West Covina | Los Angeles | 0.049% | | **0.0404521%** |
| City | West Hollywood | Los Angeles | 0.013% | | **0.0108517%** |
| City | Whittier | Los Angeles | 0.032% | | **0.0260581%** |
| County | ***Madera County*** | Madera | 0.349% | 0.427% | **0.3630669%** |
| City | Chowchilla | Madera | 0.012% | | **0.0097332%** |
| City | Madera | Madera | 0.039% | | **0.0318441%** |
| County | ***Marin County*** | Marin | 0.564% | 0.690% | **0.5861325%** |
| City | Larkspur | Marin | 0.015% | | **0.0124697%** |
| City | Mill Valley | Marin | 0.020% | | **0.0168401%** |
| City | Novato | Marin | 0.028% | | **0.0229824%** |
| City | San Anselmo | Marin | 0.009% | | **0.0078062%** |
| City | San Rafael | Marin | 0.089% | | **0.0729823%** |
| County | ***Mariposa County*** | Mariposa | 0.084% | 0.103% | **0.0876131%** |
| County | ***Mendocino County*** | Mendocino | 0.439% | 0.536% | **0.4558394%** |
| City | Ukiah | Mendocino | 0.039% | | **0.0317153%** |

APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| County | ***Merced County*** | Merced | 0.551% | 0.674% | **0.5724262%** |
| City | Atwater | Merced | 0.024% | | **0.0195846%** |
| City | Livingston | Merced | 0.006% | | **0.0045873%** |
| City | Los Banos | Merced | 0.020% | | **0.0165142%** |
| City | Merced | Merced | 0.061% | | **0.0500762%** |
| County | ***Modoc County*** | Modoc | 0.065% | 0.080% | **0.0678250%** |
| County | ***Mono County*** | Mono | 0.023% | 0.029% | **0.0242606%** |
| County | ***Monterey County*** | Monterey | 0.908% | 1.111% | **0.9437083%** |
| City | Greenfield | Monterey | 0.006% | | **0.0050552%** |
| City | King City | Monterey | 0.005% | | **0.0037355%** |
| City | Marina | Monterey | 0.017% | | **0.0144098%** |
| City | Monterey | Monterey | 0.041% | | **0.0336540%** |
| City | Pacific Grove | Monterey | 0.009% | | **0.0074842%** |
| City | Salinas | Monterey | 0.094% | | **0.0776576%** |
| City | Seaside | Monterey | 0.023% | | **0.0191772%** |
| City | Soledad | Monterey | 0.007% | | **0.0060870%** |
| County | ***Napa County*** | Napa | 0.288% | 0.352% | **0.2994325%** |
| City | American Canyon | Napa | 0.017% | | **0.0136869%** |
| City | Napa | Napa | 0.078% | | **0.0642783%** |
| County | ***Nevada County*** | Nevada | 0.441% | 0.539% | **0.4579827%** |
| City | Grass Valley | Nevada | 0.024% | | **0.0197805%** |
| City | Truckee | Nevada | 0.003% | | **0.0023843%** |
| County | ***Orange County*** | Orange | 4.364% | 5.339% | **4.5363576%** |
| City | Aliso Viejo | Orange | 0.014% | | **0.0113841%** |
| City | Anaheim | Orange | 0.554% | 0.678% | **0.5759282%** |
| City | Brea | Orange | 0.086% | | **0.0708897%** |
| City | Buena Park | Orange | 0.087% | | **0.0714352%** |
| City | Costa Mesa | Orange | 0.124% | 0.152% | **0.1288366%** |
| City | Cypress | Orange | 0.033% | | **0.0271937%** |
| City | Dana Point | Orange | 0.001% | | **0.0005560%** |

APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Fountain Valley | Orange | 0.055% | | **0.0455980%** |
| City | Fullerton | Orange | 0.137% | 0.168% | **0.1425744%** |
| City | Garden Grove | Orange | 0.213% | | **0.1752482%** |
| City | Huntington Beach | Orange | 0.247% | 0.302% | **0.2568420%** |
| City | Irvine | Orange | 0.139% | 0.170% | **0.1442350%** |
| City | Laguna Beach | Orange | 0.047% | 0.058% | **0.0493043%** |
| City | Laguna Hills | Orange | 0.014% | | **0.0115457%** |
| City | Laguna Niguel | Orange | 0.001% | | **0.0007071%** |
| City | Laguna Woods | Orange | 0.001% | | **0.0006546%** |
| City | La Habra | Orange | 0.060% | 0.073% | **0.0621049%** |
| City | Lake Forest | Orange | 0.012% | | **0.0101249%** |
| City | La Palma | Orange | 0.012% | | **0.0095439%** |
| City | Los Alamitos | Orange | 0.008% | | **0.0069190%** |
| City | Mission Viejo | Orange | 0.014% | | **0.0117560%** |
| City | Newport Beach | Orange | 0.179% | | **0.1470134%** |
| City | Orange | Orange | 0.150% | | **0.1231320%** |
| City | Placentia | Orange | 0.029% | 0.035% | **0.0298912%** |
| City | Rancho Santa Margarita | Orange | 0.001% | | **0.0006296%** |
| City | San Clemente | Orange | 0.008% | 0.010% | **0.0086083%** |
| City | San Juan Capistrano | Orange | 0.008% | | **0.0065510%** |
| City | Santa Ana | Orange | 0.502% | 0.614% | **0.5213866%** |
| City | Seal Beach | Orange | 0.020% | | **0.0165891%** |
| City | Stanton | Orange | 0.035% | | **0.0291955%** |
| City | Tustin | Orange | 0.073% | | **0.0600341%** |
| City | Westminster | Orange | 0.104% | 0.127% | **0.1082721%** |
| City | Yorba Linda | Orange | 0.044% | | **0.0362223%** |
| County | ***Placer County*** | Placer | 1.045% | 1.278% | **1.0861002%** |
| City | Auburn | Placer | 0.017% | | **0.0141114%** |
| City | Lincoln | Placer | 0.031% | | **0.0255599%** |
| City | Rocklin | Placer | 0.076% | | **0.0625485%** |

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APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Roseville | Placer | 0.196% | | **0.1616559%** |
| County | ***Plumas County*** | Plumas | 0.205% | 0.251% | **0.2128729%** |
| County | ***Riverside County*** | Riverside | 4.534% | 5.547% | **4.7128296%** |
| City | Banning | Riverside | 0.017% | | **0.0143848%** |
| City | Beaumont | Riverside | 0.021% | | **0.0171135%** |
| City | Blythe | Riverside | 0.012% | | **0.0096714%** |
| City | Canyon Lake | Riverside | 0.000% | | **0.0001761%** |
| City | Cathedral City | Riverside | 0.067% | | **0.0553614%** |
| City | Coachella | Riverside | 0.021% | | **0.0173054%** |
| City | Corona | Riverside | 0.147% | | **0.1207083%** |
| City | Desert Hot Springs | Riverside | 0.024% | | **0.0200433%** |
| City | Eastvale | Riverside | 0.000% | | **0.0002747%** |
| City | Hemet | Riverside | 0.051% | | **0.0421792%** |
| City | Indio | Riverside | 0.056% | | **0.0457794%** |
| City | Jurupa Valley | Riverside | 0.001% | | **0.0008991%** |
| City | Lake Elsinore | Riverside | 0.021% | | **0.0172949%** |
| City | La Quinta | Riverside | 0.063% | | **0.0516732%** |
| City | Menifee | Riverside | 0.032% | | **0.0260909%** |
| City | Moreno Valley | Riverside | 0.137% | | **0.1130348%** |
| City | Murrieta | Riverside | 0.048% | 0.059% | **0.0497423%** |
| City | Norco | Riverside | 0.016% | | **0.0134542%** |
| City | Palm Desert | Riverside | 0.083% | | **0.0682465%** |
| City | Palm Springs | Riverside | 0.076% | | **0.0629862%** |
| City | Perris | Riverside | 0.009% | | **0.0076774%** |
| City | Rancho Mirage | Riverside | 0.052% | | **0.0431098%** |
| City | Riverside | Riverside | 0.268% | | **0.2206279%** |
| City | San Jacinto | Riverside | 0.010% | | **0.0085936%** |
| City | Temecula | Riverside | 0.022% | | **0.0180086%** |
| City | Wildomar | Riverside | 0.008% | | **0.0062500%** |
| County | ***Sacramento County*** | Sacramento | 3.797% | 4.645% | **3.9465887%** |

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APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Citrus Heights | Sacramento | 0.057% | | **0.0465312%** |
| City | Elk Grove | Sacramento | 0.130% | | **0.1066994%** |
| City | Folsom | Sacramento | 0.108% | | **0.0890850%** |
| City | Galt | Sacramento | 0.017% | | **0.0143704%** |
| City | Rancho Cordova | Sacramento | 0.008% | | **0.0067679%** |
| City | Sacramento | Sacramento | 0.721% | 0.882% | **0.7496530%** |
| County | ***San Benito County*** | San Benito | 0.106% | 0.130% | **0.1101417%** |
| City | Hollister | San Benito | 0.027% | | **0.0225355%** |
| County | ***San Bernardino County*** | San Bernardino | 3.259% | 3.987% | **3.3878124%** |
| City | Adelanto | San Bernardino | 0.008% | | **0.0066640%** |
| City | Apple Valley | San Bernardino | 0.025% | | **0.0207360%** |
| City | Barstow | San Bernardino | 0.015% | | **0.0122056%** |
| City | Chino | San Bernardino | 0.064% | | **0.0525893%** |
| City | Chino Hills | San Bernardino | 0.001% | | **0.0006388%** |
| City | Colton | San Bernardino | 0.031% | | **0.0253443%** |
| City | Fontana | San Bernardino | 0.112% | | **0.0920543%** |
| City | Grand Terrace | San Bernardino | 0.006% | | **0.0051051%** |
| City | Hesperia | San Bernardino | 0.035% | | **0.0291522%** |
| City | Highland | San Bernardino | 0.004% | | **0.0029061%** |
| City | Loma Linda | San Bernardino | 0.009% | | **0.0071188%** |
| City | Montclair | San Bernardino | 0.039% | | **0.0322108%** |
| City | Ontario | San Bernardino | 0.179% | | **0.1472934%** |
| City | Rancho Cucamonga | San Bernardino | 0.084% | | **0.0689431%** |
| City | Redlands | San Bernardino | 0.057% | | **0.0469150%** |
| City | Rialto | San Bernardino | 0.073% | | **0.0603206%** |
| City | San Bernardino | San Bernardino | 0.178% | | **0.1461880%** |
| City | Twentynine Palms | San Bernardino | 0.002% | | **0.0012605%** |
| City | Upland | San Bernardino | 0.052% | | **0.0424460%** |
| City | Victorville | San Bernardino | 0.033% | | **0.0269400%** |
| City | Yucaipa | San Bernardino | 0.016% | | **0.0128772%** |

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APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Yucca Valley | San Bernardino | 0.003% | | **0.0021228%** |
| County | ***San Diego County*** | San Diego | 5.706% | 6.980% | **5.9309748%** |
| City | Carlsbad | San Diego | 0.128% | | **0.1050485%** |
| City | Chula Vista | San Diego | 0.189% | 0.231% | **0.1961456%** |
| City | Coronado | San Diego | 0.044% | | **0.0359095%** |
| City | El Cajon | San Diego | 0.113% | | **0.0933582%** |
| City | Encinitas | San Diego | 0.061% | 0.074% | **0.0630289%** |
| City | Escondido | San Diego | 0.145% | | **0.1192204%** |
| City | Imperial Beach | San Diego | 0.014% | | **0.0118283%** |
| City | La Mesa | San Diego | 0.055% | 0.068% | **0.0575593%** |
| City | Lemon Grove | San Diego | 0.022% | | **0.0183911%** |
| City | National City | San Diego | 0.080% | | **0.0656808%** |
| City | Oceanside | San Diego | 0.213% | | **0.1753428%** |
| City | Poway | San Diego | 0.062% | | **0.0511040%** |
| City | San Diego | San Diego | 1.975% | 2.416% | **2.0531169%** |
| City | San Marcos | San Diego | 0.089% | | **0.0733897%** |
| City | Santee | San Diego | 0.033% | | **0.0268401%** |
| City | Solana Beach | San Diego | 0.017% | | **0.0138564%** |
| City | Vista | San Diego | 0.052% | | **0.0425144%** |
| Consolidated | ***San Francisco*** | San Francisco | 3.026% | 3.702% | **3.1457169%** |
| County | ***San Joaquin County*** | San Joaquin | 1.680% | 2.055% | **1.7460399%** |
| City | Lathrop | San Joaquin | 0.009% | | **0.0075394%** |
| City | Lodi | San Joaquin | 0.053% | | **0.0439484%** |
| City | Manteca | San Joaquin | 0.054% | | **0.0443454%** |
| City | Ripon | San Joaquin | 0.013% | | **0.0104219%** |
| City | Stockton | San Joaquin | 0.313% | 0.383% | **0.3256176%** |
| City | Tracy | San Joaquin | 0.084% | | **0.0692047%** |
| County | ***San Luis Obispo County*** | San Luis Obispo | 0.816% | 0.999% | **0.8484126%** |
| City | Arroyo Grande | San Luis Obispo | 0.024% | | **0.0199053%** |
| City | Atascadero | San Luis Obispo | 0.029% | | **0.0240680%** |

APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | El Paso de Robles (Paso Robles) | San Luis Obispo | 0.043% | | **0.0353456%** |
| City | Grover Beach | San Luis Obispo | 0.017% | | **0.0137881%** |
| City | Morro Bay | San Luis Obispo | 0.020% | | **0.0160922%** |
| City | San Luis Obispo | San Luis Obispo | 0.077% | | **0.0637841%** |
| County | ***San Mateo County*** | San Mateo | 1.074% | 1.313% | **1.1159599%** |
| City | Belmont | San Mateo | 0.021% | | **0.0169860%** |
| City | Burlingame | San Mateo | 0.019% | | **0.0152537%** |
| City | Daly City | San Mateo | 0.044% | | **0.0363880%** |
| City | East Palo Alto | San Mateo | 0.013% | | **0.0103982%** |
| City | Foster City | San Mateo | 0.020% | | **0.0166101%** |
| City | Half Moon Bay | San Mateo | 0.004% | | **0.0031638%** |
| City | Hillsborough | San Mateo | 0.013% | | **0.0110029%** |
| City | Menlo Park | San Mateo | 0.015% | | **0.0126209%** |
| City | Millbrae | San Mateo | 0.013% | | **0.0105836%** |
| City | Pacifica | San Mateo | 0.016% | | **0.0130625%** |
| City | Redwood City | San Mateo | 0.056% | | **0.0463511%** |
| City | San Bruno | San Mateo | 0.021% | | **0.0172161%** |
| City | San Carlos | San Mateo | 0.013% | | **0.0108885%** |
| City | San Mateo | San Mateo | 0.052% | | **0.0425841%** |
| City | South San Francisco | San Mateo | 0.043% | | **0.0353943%** |
| County | ***Santa Barbara County*** | Santa Barbara | 1.132% | 1.385% | **1.1768968%** |
| City | Carpinteria | Santa Barbara | 0.001% | | **0.0008938%** |
| City | Goleta | Santa Barbara | 0.004% | | **0.0028969%** |
| City | Lompoc | Santa Barbara | 0.047% | | **0.0389379%** |
| City | Santa Barbara | Santa Barbara | 0.122% | | **0.1004559%** |
| City | Santa Maria | Santa Barbara | 0.058% | | **0.0479179%** |
| County | ***Santa Clara County*** | Santa Clara | 2.404% | 2.941% | **2.4987553%** |
| City | Campbell | Santa Clara | 0.014% | | **0.0112566%** |
| City | Cupertino | Santa Clara | 0.008% | | **0.0066824%** |
| City | Gilroy | Santa Clara | 0.025% | | **0.0202891%** |

APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Los Altos | Santa Clara | 0.013% | | **0.0103338%** |
| City | Los Gatos | Santa Clara | 0.013% | | **0.0103220%** |
| City | Milpitas | Santa Clara | 0.036% | | **0.0298120%** |
| City | Morgan Hill | Santa Clara | 0.015% | | **0.0124619%** |
| City | Mountain View | Santa Clara | 0.041% | | **0.0334608%** |
| City | Palo Alto | Santa Clara | 0.039% | | **0.0323080%** |
| City | San Jose | Santa Clara | 0.294% | 0.360% | **0.3054960%** |
| City | Santa Clara | Santa Clara | 0.067% | | **0.0549723%** |
| City | Saratoga | Santa Clara | 0.004% | | **0.0034161%** |
| City | Sunnyvale | Santa Clara | 0.053% | | **0.0434069%** |
| County | ***Santa Cruz County*** | Santa Cruz | 0.783% | 0.957% | **0.8135396%** |
| City | Capitola | Santa Cruz | 0.020% | | **0.0168191%** |
| City | Santa Cruz | Santa Cruz | 0.143% | | **0.1180348%** |
| City | Scotts Valley | Santa Cruz | 0.015% | | **0.0126525%** |
| City | Watsonville | Santa Cruz | 0.063% | | **0.0520136%** |
| County | ***Shasta County*** | Shasta | 1.095% | 1.339% | **1.1380191%** |
| City | Anderson | Shasta | 0.024% | | **0.0198896%** |
| City | Redding | Shasta | 0.284% | | **0.2334841%** |
| City | Shasta Lake | Shasta | 0.004% | | **0.0031993%** |
| County | ***Siskiyou County*** | Siskiyou | 0.228% | 0.279% | **0.2373393%** |
| County | ***Solano County*** | Solano | 0.760% | | **0.6260795%** |
| City | Benicia | Solano | 0.031% | | **0.0253903%** |
| City | Dixon | Solano | 0.016% | | **0.0130849%** |
| City | Fairfield | Solano | 0.109% | | **0.0897317%** |
| City | Suisun City | Solano | 0.021% | | **0.0176183%** |
| City | Vacaville | Solano | 0.119% | | **0.0976497%** |
| City | Vallejo | Solano | 0.167% | | **0.1373644%** |
| County | ***Sonoma County*** | Sonoma | 1.218% | 1.490% | **1.2661290%** |
| City | Healdsburg | Sonoma | 0.032% | | **0.0266929%** |
| City | Petaluma | Sonoma | 0.081% | | **0.0667507%** |

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APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Rohnert Park | Sonoma | 0.041% | | **0.0340759%** |
| City | Santa Rosa | Sonoma | 0.184% | | **0.1519070%** |
| City | Sonoma | Sonoma | 0.022% | | **0.0183438%** |
| City | Windsor | Sonoma | 0.016% | | **0.0129298%** |
| County | ***Stanislaus County*** | Stanislaus | 1.722% | | **1.4182273%** |
| City | Ceres | Stanislaus | 0.041% | | **0.0340260%** |
| City | Modesto | Stanislaus | 0.217% | | **0.1788759%** |
| City | Newman | Stanislaus | 0.006% | | **0.0046964%** |
| City | Oakdale | Stanislaus | 0.018% | | **0.0145531%** |
| City | Patterson | Stanislaus | 0.015% | | **0.0126590%** |
| City | Riverbank | Stanislaus | 0.010% | | **0.0085699%** |
| City | Turlock | Stanislaus | 0.065% | | **0.0531966%** |
| County | ***Sutter County*** | Sutter | 0.306% | 0.374% | **0.3179548%** |
| City | Yuba City | Sutter | 0.074% | | **0.0606242%** |
| County | ***Tehama County*** | Tehama | 0.213% | 0.261% | **0.2216654%** |
| City | Red Bluff | Tehama | 0.014% | | **0.0117771%** |
| County | ***Trinity County*** | Trinity | 0.082% | 0.101% | **0.0855476%** |
| County | ***Tulare County*** | Tulare | 0.809% | 0.990% | **0.8410949%** |
| City | Dinuba | Tulare | 0.014% | | **0.0116929%** |
| City | Exeter | Tulare | 0.004% | | **0.0032479%** |
| City | Farmersville | Tulare | 0.003% | | **0.0027879%** |
| City | Lindsay | Tulare | 0.007% | | **0.0057111%** |
| City | Porterville | Tulare | 0.021% | | **0.0171845%** |
| City | Tulare | Tulare | 0.037% | | **0.0302273%** |
| City | Visalia | Tulare | 0.066% | | **0.0545872%** |
| County | ***Tuolumne County*** | Tuolumne | 0.486% | 0.594% | **0.5047621%** |
| County | ***Ventura County*** | Ventura | 2.192% | 2.681% | **2.2781201%** |
| City | Camarillo | Ventura | 0.002% | | **0.0012815%** |
| City | Fillmore | Ventura | 0.002% | | **0.0020294%** |
| City | Moorpark | Ventura | 0.008% | | **0.0067337%** |

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APPENDIX 1

| Participating Subdivision Classification | Participating Subdivision | County | Abatement Percentage | Plaintiff Subdivision Percentage | Weighted Allcation Percentage |
|---|---|---|---|---|---|
| City | Oxnard | Ventura | 0.156% | 0.190% | **0.1617338%** |
| City | Port Hueneme | Ventura | 0.021% | | **0.0174145%** |
| City | San Buenaventura (Ventura) | Ventura | 0.085% | | **0.0702181%** |
| City | Santa Paula | Ventura | 0.014% | | **0.0119072%** |
| City | Simi Valley | Ventura | 0.065% | | **0.0533043%** |
| City | Thousand Oaks | Ventura | 0.022% | | **0.0179902%** |
| County | ***Yolo County*** | Yolo | 0.357% | 0.437% | **0.3713319%** |
| City | Davis | Yolo | 0.055% | | **0.0451747%** |
| City | West Sacramento | Yolo | 0.066% | | **0.0544321%** |
| City | Woodland | Yolo | 0.058% | | **0.0477904%** |
| County | ***Yuba County*** | Yuba | 0.214% | 0.262% | **0.2225679%** |
| City | Marysville | Yuba | 0.014% | | **0.0112079%** |

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## APPENDIX 2

### Cost Reimbursement Procedure

**1. Additional defined terms:**

a) *Costs* means the reasonable amounts paid for the attorney and other City Attorney and County Counsel staff time for individuals employed by a Plaintiff Subdivision at the contractual rate, inclusive of benefits and overhead, together with amounts paid for court reporters, experts, copying, electronic research, travel, vendors, and the like, which were paid or incurred (i) prior to July 21, 2021 in litigation against any Opioid Defendant and/or (ii) in negotiating and drafting this CA Distributor Allocation Agreement. Costs does not include attorneys' fees, costs, or expenses incurred by private contingency fee counsel. No part of the CA Abatement Accounts Fund will be used to reimburse Costs.

b) *First Claims Date* means October 1, 2023 or when all applications for reimbursement of Costs, in whole or in part, from funds available under Section X and Exhibit R of the Distributor Settlement Agreement or Section XI and Exhibit R of the Janssen Settlement Agreement, have been finally determined under the provisions of those agreements, whichever comes first.

c) *Special Master* means a retired judicial officer or former public lawyer, not presently employed or retained by a Plaintiff Subdivision, who will aggregate, review, and determine the reasonable Costs to be awarded to each Plaintiff Subdivision that submits a claim for reimbursement of Costs. The Special Master will be selected by a majority vote of the votes cast by Plaintiff Subdivisions, with each such subdivision having one vote.

d) *Plaintiff Subdivision Committee* means the committee of Plaintiff Subdivisions that will review and approve the invoices submitted by the Special Master reflecting his or her reasonable time and expenses.

**2. Cost Reimbursement to Plaintiff Subdivision**

a) Purpose. Substantial resources have been expended to hold Opioid Defendants accountable for creating and profiting from the opioid crisis, and this effort has been a significant catalyst in creating a National Opioid Settlement with Distributors, Johnson & Johnson, and others.

b) Claims Procedure.

i. If a Plaintiff Subdivision is eligible to seek reimbursement of Costs, in whole or in part, from funds available under Section X or Exhibit R of the Distributor Settlement Agreement or Section XI or Exhibit R of the Janssen Settlement Agreement, it must first make a timely application for reimbursement from such funds. To allow sufficient time for determination of those applications, no claim for

Costs to the CA Subdivision Fund under this Agreement may be made before the First Claims Date.

ii. A Plaintiff Subdivision that wishes to be reimbursed from the CA Subdivision Fund must submit a claim to the Special Master no later than forty-five (45) days after the First Claims Date. The Special Master will then compile and redistribute the aggregated claim totals for each Plaintiff Subdivision via email to representatives of all the Plaintiff Subdivisions. A claim for attorney and staff time must list, for each attorney or staff member included in the claim, the following information: name, title, total hours claimed, hourly rate (including, if sought, benefits and share of overhead), and narrative summarizing the general nature of the work performed by the attorney or staff member. For reimbursement of "hard" costs, the subdivision may aggregate across a category (e.g., total for travel costs). It is the intention of the Plaintiff Subdivisions that submission of documents related to reimbursement of Costs does not waive any attorney-client privilege or exemptions to the California Public Records Act.

iii. The Special Master may request, at his or her sole option, additional documents or details to assist in the final award of Costs.

iv. The Special Master will review claims for reasonableness and will notify each Plaintiff Subdivision of the final determination of its claim, and will provide a list of all final awards to all Plaintiff Subdivisions by email or, upon request, via First Class U.S. Mail. Any Plaintiff Subdivision may ask the Special Master to reconsider any final award within twenty-one (21) days. The Special Master will make a final determination on any such reconsideration request within thirty (30) days of receipt.

v. Any decision of the Special Master is final and binding, and will be considered under the California Arbitration Act, Code of Civil Procedure section 1280 et seq. as a final arbitration award. Nothing in this agreement is intended to expand the scope of judicial review of the final award for errors of fact or law, and the Parties agree that they may only seek to vacate the award if clear and convincing evidence demonstrates one of the factors set forth in Code of Civil Procedure, section 1286.2, subdivision (a). Plaintiff Subdivisions will have fourteen (14) days after all final awards are made, together with any final determination of a request for reconsideration, to seek review in the Superior Court of California, pursuant to Code of Civil Procedure, section 1285, where the State has filed its Consent Judgment.

vi. The Special Master will prepare a report of Costs that includes his or her fees and expenses at least ninety (90) days before the Payment Date for each Annual Payment. The Special Master's preparation of a report of Costs does not discharge a Plaintiff Subdivision's reporting requirement under Section V.B.2 of the Distributor Agreement.

vii. A member of the Plaintiff Subdivision Committee, which is a CA Participating Subdivision, will submit to the Settlement Fund Administrator and the Distributors a

report of the fees and expenses incurred by the Special Master pursuant to Section V.B.2 of the Distributor Agreement.

c) Claims Priority and Limitation.

i. The Special Master will submit invoices for compensation of reasonable fees and expenses to the Plaintiff Subdivision Committee no later than ninety (90) days prior to the Payment Date for each Annual Payment. The Plaintiff Subdivision Committee will promptly review and, if reasonable, approve the Special Master's invoice for compensation. The Plaintiff Subdivision Committee will submit approved invoices to the Settlement Fund Administrator for payment. The Special Master's approved invoices have priority and will be paid first from the CA Subdivision Fund before any award of Costs, subject to the limitation in Section 2.c.v below.

ii. Final Awards of Costs that do not exceed seventy-five thousand dollars ($75,000.00) will be paid next in priority after the Special Master's approved invoices.

iii. Final Awards of Costs in excess of seventy-five thousand dollars ($75,000.00) will be paid proportionally from the funds remaining in that year's Annual Payment.

iv. Any claim for Costs that is not paid in full will be allocated against the next year's distribution from the CA Subdivision Fund, until all approved claims for Costs are paid in full.

v. In no event will more than 50% of the total CA Subdivision Fund received in any year be used to pay Costs or the Special Master's approved invoices.

vi. In no event shall more than $28 million of the total CA Subdivision Funds paid pursuant to the Distributor Settlement Agreement and the Janssen Settlement Agreement be used to pay Costs.

d) Collateral Source Payments and Third-Party Settlement.

i. In the event a Plaintiff Subdivision is awarded compensation, in whole or in part, by any source of funds created as a result of litigation against an Opioid Defendant for its reasonable Costs, it will reduce its claim for Costs from the CA Subdivision Fund by that amount. If a Plaintiff Subdivision has already received a final award of Costs from the CA Subdivision Fund, it will repay the fund up to the prior award of Costs via a payment to the Settlement Fund Administrator or notify the Settlement Fund Administrator that its allocation from the next and subsequent Annual Payments should be reduced accordingly. If the Plaintiff Subdivision is repaying any prior award of Costs, that repayment will occur as soon as is feasible after the Plaintiff Subdivision's receipt of Cost funds from the collateral source, but no more than 90 days after its receipt from the collateral source. The Settlement Fund Administrator will add any repaid Costs to the CA Subdivision Fund.

ii. In the event a Plaintiff Subdivision reaches a monetary settlement or compromise against any Opioid Defendant outside of the National Opioid Settlement, the monetary portion of such settlement, net of fees paid to outside contingency fee counsel and of funds earmarked strictly for abatement, will be credited against its Costs and the subdivision will be ineligible to recover those credited Costs from the CA Subdivision Fund. Plaintiff Subdivisions negotiating monetary settlements or compromises against any Opioid Defendant outside of the National Opioid Settlement will negotiate for funds to repay any Costs it previously received from the CA Subdivision Fund or for Costs it otherwise might be eligible to claim from the CA Subdivision Fund. If such a settlement is paid after all final approved claims for Costs by all Plaintiff Subdivisions are satisfied in full, the settling subdivision will reimburse the CA Subdivision Fund in that amount by making payment to the Settlement Fund Administrator to add to the CA Subdivision Fund in a manner consistent with the repayments described in section 2.d.i above.

## APPENDIX 3

## CALIFORNIA-SUBDIVISION BACKSTOP AGREEMENT

On August 6, 2021, Judge Polster of the US District Court for the Northern District of Ohio issued an Order (the Order), docket number 3814, in In Re National Prescription Opiate Litigation, MDL 2804, addressing contingent attorney fee contracts between political subdivisions eligible to participate in the Distributors Settlement and their counsel.

In light of the Order, and at the request of [SUBDIVISION], the [SUBDIVISION], its counsel [COUNSEL], and the California Attorney General, on behalf of the State of California, are entering into this California-Subdivision Backstop Agreement (Backstop Agreement).

[SUBDIVISION] and [COUNSEL] intend this Backstop Agreement to constitute a State Back-Stop Agreement as that term is used in the Order and in Exhibit R (Agreement on Attorneys' Fees, Expenses and Costs) of the Distributor Settlement Agreement.

Pursuant to this Backstop Agreement, [SUBDIVISION] may, subject to the limitations of the Distributor Settlement Agreement and CA Distributor Allocation Agreement, as well as any other limitations imposed by law, use funds that it receives from the Distributor Settlement CA Subdivision Fund to pay a contingent fee to [COUNSEL]. Any such payment from [SUBDIVISION] to [COUNSEL], together with any contingency fees that [COUNSEL] may receive from the national Attorney Fee Fund, will not exceed a total contingency fee of [PERCENTAGE NOT TO EXCEED 15%] of the total gross recovery of [SUBDIVISION] from the Distributors Settlement.

[COUNSEL] certify that they first sought fees and costs from the Attorney Fee Fund created under the Distributor Settlement Agreement before seeking or accepting payment under this backstop agreement. [COUNSEL] further certify that they are not seeking and will not accept payment under this backstop agreement of any litigation fees or costs that have been reimbursed through prior settlements or judgments.

The Attorney General is executing this agreement solely because the definition of "State Back-Stop Agreement" in Exhibit R of the Distributor Settlement Agreement requires such agreements to be between "a Settling State" and private counsel for a participating subdivision. Neither the California Attorney General nor the State of California have any obligations under this Backstop Agreement, and this Backstop Agreement does not require the payment of any state funds to [SUBDIVISION], [COUNSEL], or any other party.

| | |
|---|---|
| [DATE] | [SUBDIVISION SIGNATURE BLOCK] |
| [DATE] | [COUNSEL SIGNATURE BLOCK] |
| [DATE] | [ATTORNEY GENERAL SIGNATURE BLOCK] |

The undersigned, Pittsburg city, ACKNOWLEDGES acceptance of this Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds - Distributor Settlement is a requirement to be an Initial Participating Subdivision in the Distributor Settlement and ACCEPTS this Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds - Distributor Settlement.

I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

## Settlement Participation Form

| Governmental Entity: Pittsburg city | State: CA |
|---|---|
| Authorized Signatory: | |
| Address 1: | |
| Address 2: | |
| City, State, Zip: | |
| Phone: | |
| Email: | |

The governmental entity identified above ("Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 ("Janssen Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.

4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.

5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.

7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim.

9. In connection with the releases provided for in the Janssen Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Janssen Settlement.

10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.

I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of City Council Resolution to Approve the Purchase of a 2022 Peterbilt 548 Dump Truck

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

The City maintains a fleet of vehicles and equipment necessary for City operations and for maintenance of the City's infrastructure, including a dump truck that needs replacement. If approved, this resolution will authorize a purchase contract for a new 2022 Peterbilt 548 dump truck.

## FISCAL IMPACT

The dump truck replacement cost is included in the Fleet Operations Budget previously approved by the City Council for FY 2020-21 and carried forward to FY 2021-22. No additional funds are requested.

## RECOMMENDATION

City Council adopt the attached Resolution authorizing the City Manager to execute a contract with Western Truck Parts and Equipment in the amount of $182,591.79, for purchase of a 2022 Peterbilt 548, 15-foot dump truck and required special parts.

## BACKGROUND

The Public Works Department Fleet Maintenance Division is responsible for the maintenance of a vehicle fleet of cars, trucks, heavy equipment, and other equipment necessary to maintain efficient operations of the City.

The dump truck is used by various Public Works divisions for hauling debris, asphalt, concrete, and rock for citywide cleanup projects, street and water line maintenance and repair. The current dump truck is no longer reliable or cost-effective to repair. If approved, the new truck will replace the depleted truck.

## SUBCOMMITTEE FINDINGS

This item was presented to the Finance Subcommittee on December 17, 2021.

## STAFF ANALYSIS

Staff solicited cost proposals from Western Truck Parts and Equipment, for the replacement truck. Western Truck is a vendor enrolled in a purchasing program where the State of California solicits proposals and negotiates purchase agreements for equipment commonly used by public agencies, including trucks.

If approved, the agreement would authorize the City to make a “piggyback” purchase from Western Truck Parts and Equipment for the price previously negotiated with the State of California for this equipment.

Staff recommends City Council approve the attached resolution to authorize the City Manager to execute a contract with Western Truck Parts & Equipment, in the amount of $182,591.79, for the purchase of a new 2022 Peterbilt 548 Dump truck with required special equipment and parts.

ATTACHMENTS: Resolution
Sourcewell Bid
Signed Agreement
Sales Order

Report Prepared By: Natasha Farmer, Public Works Administrative Analyst I

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter Of:

Authorizing Execution of a Contract to Purchase a New Dump Truck ) RESOLUTION NO. 21 - _____

WHEREAS, the City's Public Works Department is responsible for the care and maintenance of the City's Fleet; and,

WHEREAS, the current Dump truck is no longer reliable or cost-effective to repair; and,

WHEREAS, Sourcewell, formerly NJPA, has undertaken competitive bidding equivalent to or better than the requirements in City's Purchasing Policy and has entered into contracts with various vendors including Peterbilt Motors Company, a Texas corporation,

WHEREAS, Western Truck Parts & Equipment Company, LLC., a California Limited Liability Company, is an authorized dealer for Peterbilt Motors Company and represents and warrants that it is bound by all terms and conditions of the Contract from RFP #060920; and

WHEREAS, sufficient funds to accommodate the purchase are available in the previously approved Fleet Operations Budget for Fiscal Year 2021/22.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby approves and authorizes the City Manager to execute a Contract in the amount of $182,591.79, with Western Truck Parts & Equipment for the purchase of a new 2022 Peterbilt 548 Dump truck with required special equipment and parts.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

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Sourcewell

**Solicitation Number: RFP #060920**

# CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Peterbilt Motors Company, 1700 Woodbrook Street, Denton, TX 76205 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

## 1. TERM OF CONTRACT

A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.

B. EXPIRATION DATE AND EXTENSION. This Contract expires August 1, 2024, unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.

C. SURVIVAL OF TERMS. Articles 11 through 16 survive the expiration or cancellation of this Contract.

## 2. EQUIPMENT, PRODUCTS, OR SERVICES

A. EQUIPMENT, PRODUCTS, OR SERVICES. Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in

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Vendor's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized dealers, distributors, and/or resellers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

## 3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

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Vendor's Dealer will perform a Pre-Delivery Inspection (PDI) which is included in the price of the vehicle. Any issues with the Equipment or Products will be addressed at PDI and corrected through the Vendor warranty process.

Sourcewell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

B. SALES TAX. Each Participating Entity is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

## 4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

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A fully executed Sourcewell Price and Product Request Form will be become an amendment to this Contract and be incorporated by reference.

## 5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential members to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

## 6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically, a Participating Entity will issue an order directly to Vendor's Dealer, referencing Vendor's contract number. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration of this Contract; however, Vendor performance, Participating Entity payment, and any applicable warranty periods or other Vendor or Participating Entity obligations may extend beyond the term of this Contract.

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Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entitles may require the use of a Participating Addendum; the terms of which will be worked out directly between the Participating Entity and the Vendor. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. PERFORMANCE BOND. If requested by a Participating Entity, Vendor's Dealer will provide a performance bond that meets the requirements set forth in the Participating Entity's order.

D. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Participating Entity and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

E. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity.

F. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

## 7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

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- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

## 8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit a check payable to Sourcewell for the administrative fee amount stated in the Proposal multiplied by the total number of trucks purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Sourcewell-assigned contract number in the memo and must be mailed to the address above “Attn:

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Accounts Receivable." Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

## 9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

## 10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. ASSIGNMENT. Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

B. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

C. WAIVER. If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

D. CONTRACT COMPLETE. This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

E. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

## 11. LIABILITY

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Vendor must indemnify, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

## 12. AUDITS

Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract for a minimum of 6 years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

## 13. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

## 14. INDEMNIFICATION

As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws.

## 15. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:

    a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use theTrademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.

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b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.

2. *Limited Right of Sublicense*. The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

a. Sourcewell must not alter Vendor's Trademarks from the form provided by Vendor and must comply with Vendor's removal requests as to specific uses of its trademarks or logos.

b. Vendor must not alter Sourcewell's Trademarks from the form provided by Sourcewell and must comply with Sourcewell's removal requests as to specific uses of its trademarks or logos.

c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's Trademarks only in good faith and in a dignified manner consistent with such party's use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. *Termination*. Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

D. ENDORSEMENT. The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

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## 16. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

## 17. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

## 18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

## 19. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending*. Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed will be borne by the Vendor.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

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Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

**20. INSURANCE**

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*
Workers' Compensation: As required by any applicable law or regulation.
Employer's Liability Insurance: must be provided in amounts not less than listed below:
Minimum limits:
$500,000 each accident for bodily injury by accident
$500,000 policy limit for bodily injury by disease
$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.
Minimum Limits:
$1,000,000 each occurrence Bodily Injury and Property Damage
$1,000,000 Personal and Advertising Injury
$2,000,000 aggregate for Products-Completed operations
$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms

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no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:
$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:
$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability*. During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:
$2,000,000 per claim or event
$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:
$2,000,000 per occurrence
$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without 30 days' prior written notice to the Vendor.

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Upon request, Vendor must provide to Sourcewell copies of applicable policies and endorsements, within 10 days of a request. Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

F. SELF-INSURED RETENTIONS. Any self-insured retention in excess of $10,000 is subject to Sourcewell's approval.

## 21. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Participating Entities.

## 22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during

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this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

**23. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS**

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to "federal" should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148). When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The

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decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of $150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations

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issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

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K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**24. CANCELLATION**

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz _____
C0FD2A139D06489...
Jeremy Schwartz
Title: Director of Operations & Procurement/CPO

Date: 7/30/2020 | 3:01 PM CDT

Approved:
DocuSigned by:
By: Chad Coauette _____
7E42B8F817A64CC...
Chad Coauette

Peterbilt Motors Company

DocuSigned by:
By: _____
CFFDD7DEA5F948D...
Joe Curran
Title: National Fleet Sales Manager

Date: 7/30/2020 | 3:21 PM CDT

DocuSign Envelope ID: C83E249C-1446-4BA2-BE06-04343AA9BA85



Title: Executive Director/CEO

Date: 7/30/2020 | 3:24 PM CDT

# RFP 060920 - Class 4-8 Chassis with Related Equipment, Accessories, and Services

### Vendor Details

| | |
|---|---|
| Company Name: | Peterbilt Motors Company |
| Address: | 1700 Woodbrook St<br>Denton, Texas 76205 |
| Contact: | Joe Curran |
| Email: | joe.curran@paccar.com |
| Phone: | 615-613-1394 |
| Fax: | 615-613-1394 |
| HST#: | 91-0351110 |

### Submission Details

| | |
|---|---|
| Created On: | Monday May 04, 2020 08:12:45 |
| Submitted On: | Tuesday June 09, 2020 14:02:13 |
| Submitted By: | Joe Curran |
| Email: | joe.curran@paccar.com |
| Transaction #: | e7632b47-150f-42d4-8811-8eb9b224a263 |
| Submitter's IP Address: | 165.225.0.105 |

## Specifications

### Table 1: Proposer Identity & Authorized Representatives

**General Instructions** (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation).

| Line Item | Question | Response * | |
|---|---|---|---|
| 1 | Proposer Legal Name (and applicable d/b/a, if any): | Peterbilt Motors Company | * |
| 2 | Proposer Address: | 1700 Woodbrook Street<br>Denton, Texas 76205 | * |
| 3 | Proposer website address: | http://www.peterbilt.com | * |
| 4 | Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract): | Joe Curran<br>National Fleet Sales Manager<br>1700 Woodbrook Street<br>Denton, Texas 76205<br>joe.curran@paccar.com<br>(615) 613-1394 | * |
| 5 | Proposer's primary contact for this proposal (name, title, address, email address & phone): | Joe Curran<br>National Fleet Sales Manager<br>1700 Woodbrook Street<br>Denton, Texas 76205<br>joe.curran@paccar.com<br>(615) 613-1394 | * |
| 6 | Proposer's other contacts for this proposal, if any (name, title, address, email address & phone): | Mitesh Naik<br>Director of Medium Duty Truck Sales<br>1700 Woodbrook Street<br>Denton, Texas 76205<br>(940) 591-4107 | |

### Table 2: Company Information and Financial Strength

| Line Item | Question | Response * | |
|---|---|---|---|

| | | |
|---|---|---|
| 7 | Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services. | Peterbilt Motors Company was founded in 1939. For 80+ years Peterbilt has been manufacturing Medium-Duty and Heavy-Duty commercial trucks for the U.S. & Canadian Market. We are proud to be American-owned, headquartered in the great state of Texas. Peterbilt operates manufacturing and parts distribution facilities across the U.S. & Canada and has a large independently owned & operated dealer network consisting of 405 locations and adding on average of 25 locations per year. Our trucks are recognized as the most reliable, durable, and highest quality trucks, well suited for the harshest vocational applications that government/municipal fleets operate in on a daily basis.<br><br>Peterbilt's core values:<br><br>1) Purposeful Innovation, 2) Individualized Solutions, 3) Enduring Craftsmanship, and 4) Pride and Class<br><br>1) Purposeful Innovation – Provide technologically advanced products and services that deliver outstanding performance and value.<br><br>2) Individualized Solutions – Customize every Peterbilt product to meet the unique business needs of the customer, and support the customer with after-sales programs and services tailored to them.<br><br>3) Enduring Craftsmanship – Manufacture the industry's most durable and reliable trucks, assembled to the highest quality standards by the industry's proudest employees.<br>4) Pride & Class – Maintain a passion for unrivaled performance, forged out of the heritage of the iconic brand and focused on inspired styling and a premium driver experience.<br><br>Peterbilt's business philosophy<br><br>Peterbilt's business philosophy is to produce the highest quality, most durable, reliable trucks on the market that provide our owners with years of dependable and efficient service and therefore the best return on investment.<br><br>Peterbilt trucks are designed to last longer than any other truck on the market - on purpose! Peterbilt is the most highly desired truck on the used-truck market for a reason; the trucks are still reliable & dependable and can provide many more years of service. In fact, 94% of Peterbilt trucks in-serviced 20 years ago are STILL being in-serviced now - far better than competing OEMs. |
| 8 | What are your company's expectations in the event of an award? | Peterbilt has marketed the Sourcewell Program on it's website; both internally and externally. We take every opportunity to advertise our contract with Sourcewell; trade-shows, conventions, expositions, dealer open houses, and dealer training events, etc.<br><br>We hold Sourcewell Webinars for our entire dealer network multiple times/year and release Dealer Bulletins to further communicate and promote our contract.<br><br>If awarded, we would continue to aggressively promote our Sourcewell contract both internally & externally at events, through training, marketing, social media, etc. Our expectation is that Sourcewell members will continue to utilize the Peterbilt contract in order to secure vehicles that offer class leading reliability, durability, and value. |

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| 9 | Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response. | Peterbilt is a Division of Paccar, Inc. (www.paccar.com).<br><br>Paccar Inc designs, manufactures, and distributes light, medium, and heavy-duty commercial trucks in the United States, Europe, and internationally. The company operates in three segments: Truck, Parts, and Financial Services. The Truck segment designs, manufactures, and distributes trucks that are used for the over-the-road and off-highway hauling of commercial and consumer goods. It sells its trucks through a network of independent dealers under the Kenworth, Peterbilt, and DAF nameplates.<br><br>PACCAR had an outstanding year in 2019, generating record revenues and profits as well as industry leading operating margins. Revenues climbed to $25.6 billion and net income was $2.39 billion; delivering an after-tax return on revenue of 9.3%. The company has earned annual net income for 81 consecutive years.<br><br>PACCAR's financial results reflect the company's premium-quality trucks and services, technology leadership, strong global truck markets and record truck deliveries, complemented by record aftermarket parts sales and good financial services results worldwide. These excellent results were due to the capabilities and efforts of our employees who delivered industry leading product quality, innovation and outstanding operating efficiency.<br><br>PACCAR delivered a record 198,800 trucks to its customers, and sold a record $4.02 billion of aftermarket parts. PACCAR's excellent credit ratings of A+/A1 supported PACCAR Financial Services' record new loans and leases of $5.63 billion. Year-end stockholders' equity was a record $9.71 billion.<br><br>Class 8 truck industry retail sales in North America, including Mexico, were 336,000 vehicles in 2019 compared to 311,000 the prior year. The European 16+ tonne market in 2019 was 320,000 vehicles compared to 319,000 in 2018. PACCAR customers are generating good profits due to strong freight tonnage, low fuel prices and the superior operating efficiency of Kenworth, Peterbilt and DAF trucks.<br><br>PACCAR's strong financial performance in 2019 benefited from PACCAR Parts' record pre-tax profits of $830.8 million and PACCAR Financial Services' pre-tax profits of $298.9 million. After-tax return on beginning stockholders' equity was an industry leading 27.8% in 2019. PACCAR's financial performance has enabled the company to declare $7 billion in dividends during the last ten years, which is over 50% of the net income generated during that same period. PACCAR's total stockholder return in 2019 was 45% versus 31% for the S&P 500 Index.<br><br>Paccar Annual Report attached. | * |
| 10 | What is your US market share for the solutions that you are proposing? | Class 6/7: 8.50%<br>Class 8: 15.00%<br>Above numbers take into account ALL trucks/tractors with the majority being freight-hauling tractors and inner-city delivery trucks.<br>Looking only at Vocational-Trucks, which includes the government sector, Peterbilt market share is overall 22% (Class 6/7/8 - all inclusive). | * |
| 11 | What is your Canadian market share for the solutions that you are proposing? | Class 6/7: 7.70%<br>Class 8: 11.30%<br>Above numbers take into account ALL trucks/tractors with the majority being freight-hauling tractors and inner-city delivery trucks.<br>Looking only at Vocational-Trucks, which includes the government sector, Peterbilt market share is overall 21% (Class 6/7/8 - all inclusive). | * |
| 12 | Has your business ever petitioned for bankruptcy protection? If so, explain in detail. | No. | * |

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| 13 | How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.<br>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?<br>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party? | Peterbilt Motors Company is a manufacturer of commercial trucks. Peterbilt has a dealer network of 405 locations across the U.S. & Canada. Peterbilt dealers are independently owned & operated. All Peterbilt dealers must meet stringent sales, service, and parts support requirements as set forth in their dealer contract with Peterbilt Motors Company & Paccar, Inc.<br><br>Peterbilt dealers employ 1,000+ salespersons across the U.S. & Canada. Dealer sales personnel are required to stay up to date on the latest product updates, industry technologies, emissions, etc through in-person & on-line training throughout each calendar year. All Peterbilt dealer salespersons are licensed to sell in the States they are assigned.<br><br>In addition to the dealer network sales force, Peterbilt Motors also employs a factory-sales-management staff of approximately 40; 13 of which are focused on Vocational Trucks, including government/municipal accounts. Peterbilt also employs an individual dedicated to government contracts and the Sourcewell contract. Peterbilt factory sales managers are required to complete truck product, and all other industry related training throughout the year. All Peterbilt factory sales managers are licensed to sell in the States they are assigned.<br><br>Peterbilt dealer AND factory sales forces work collaboratively with fleets to ensure the customer experience is optimized in regards to truck specifications, performance, etc.<br><br>Peterbilt dealer service network includes 405+ locations (add ~25/year), 60 independent dealer groups, 5,000+ dealer personnel, and highly trained technicians that are ALL 100% factory certified. Peterbilt dealer locations perform all levels of service work from standard preventive maintenance to warranty repairs to complete engine rebuilds. Dealers also offer custom maintenance solutions including contract maintenance, mobile service, and on-site technician support.<br><br>Peterbilt dealers offer on-site comprehensive fluid analysis, DOT inspections and RapidCheck Express Service (provide diagnostics and an estimate of repairs in two hours or less). Dealers offer drop off service as well as pick-up and delivery. Dealers also provide Mobile Service truck for repairs at your locations.. 24/7 roadside assistance as well as a 24/7 repair hotline also available at 1-800-4-PETERBILT.<br><br>Peterbilt factory service support management team consists of 30+ individuals across the U.S. & Canada that work collaboratively with our dealers service managers and technicians to take care of our customers & their trucks, from in-depth troubleshooting to warranty & policy support. | * |

| | | | |
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| 14 | If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP. | Peterbilt Manufacturing facilities are ISO 9001:2008 certified.<br><br>Peterbilt maintains ISO 14001:2015 Environmental Management System (EMS) to improve its environmental programs and to reduce the environmental impacts of its operations and activities.<br><br>Peterbilt trucks conform to all applicable Federal Motor Vehicle Safety Standards (FMVSS).<br><br>Peterbilt trucks are equipped with emission control equipment to comply with all applicable US Environmental Protection Agency (EPA) regulations governing control of air pollution from new motor vehicles and new motor vehicle engines, which are in effect on the date of manufacture. In addition, all vehicles conform to the State of California Vehicle Code air quality standards (CARB) for new motor vehicles and new motor vehicle engines in effect on the date of vehicle manufacture.<br><br>The exterior sound level of Peterbilt vehicles conforms to the noise legislation of the US Department of Transportation and the EPA.<br><br>The interior sound level of Peterbilt vehicles, when measured in accordance with the test procedure of SAE J336 do not exceed the decibels per hour dictated in the test procedure.<br><br>Peterbilt brake systems meet all NHSTA FMVSS regulations.<br><br>Peterbilt trucks are equipped with a lighting system that conforms to the requirements of FMVSS 108.<br><br>Peterbilt standard seat belt assembly (shoulder and lap), restraint system hardware, mounting, and performance conform to FMVSS Nos. 208, 209, 210.<br><br>All instruments, indicators, and panel controls are located, identified and illuminated to conform to 49 CFR, Part 571, FMVSS No. 101.<br><br>Peterbilt dealers are authorized/certified/licensed to sell Class 5-8 commercial trucks in the States & Provinces in which they do business. | * |
| 15 | Provide all “Suspension or Debarment” information that has applied to your organization during the past ten years. | N/A | * |

## Table 3: Industry Recognition & Marketplace Success

| Line Item | Question | Response * | |
|---|---|---|---|
| 16 | Describe any relevant industry awards or recognition that your company has received in the past five years | 2015 - Peterbilt Denton achieved ISO 14001 environmental and 'no-waste-to-landfill' certifications..<br><br>2016 - The PACCAR MX-11 was named a Top 20 product by Heavy Duty Trucking magazine.<br><br>2016 - Peterbilt's truck factory in Denton, Texas and the PACCAR engine factory in Columbus, Mississippi earned Frost and Sullivan's "Manufacturing Leadership" awards for operational excellence and incorporation of the "Internet of Things" into manufacturing processes.<br><br>2017 - The PACCAR Engine Factory in Columbus, Mississippi earned the "2017 Quality Plant of the Year" award from Quality Magazine.<br><br>2018 - Peterbilt in Denton, Texas, the PACCAR engine factory in Columbus, Mississippi and PACCAR Ste-Thérèse, Canada each earned a prestigious Manufacturing Leadership Award from Frost & Sullivan, a leading industry research firm.<br><br>2019 - Peterbilt Denton earned "Manufacturing Leadership" awards from the National Association of Manufacturers.<br><br>2019 - PACCAR was honored as a global leader in environmental practices by environmental reporting firm CDP, earning recognition on the 2019 CDP Climate Change A List.<br><br>2019 - Peterbilt was recognized as a "Top Place for Women to Work" by the Women in Trucking organization. | * |
| 17 | What percentage of your sales are to the governmental sector in the past three years | 2% | * |
| 18 | What percentage of your sales are to the education sector in the past three years | <1% | * |
| 19 | List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years? | Peterbilt Motors Company only Cooperative purchasing contract is with Sourcewell.<br><br>Rush Truck Centers holds contracts with The Florida Sheriffs Association (FSA) and the Houston-Galveston Area Council (H-GAC). Annual volume data available by request through Rush Enterprises. | * |
| 20 | List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years? | N/A | * |

## Table 4: References/Testimonials

Line Item 21. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

| Entity Name * | Contact Name * | Phone Number * | |
|---|---|---|---|
| Southeastern Public Service Authority - Chesapeake, VA | Angie Hutchins | 757-961-3562 | * |
| County of Fresno, CA | Mike Downing/Ken Christiansen | 559-600-7528<br><br>559-600-7511 | * |
| Algonquin Township, IL | Andrew Gasser | 850-866-0155 | * |
| City of Portsmouth, VA | Kenny Strickland | 757-393-8629 | |
| City of Virginia Beach, VA | Reggie Padgett | 757-385-1925 | |

### Table 5: Top Five Government or Education Customers

**Line Item 22. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.**

| Entity Name | Entity Type * | State / Province * | Scope of Work * | Size of Transactions * | Dollar Volume Past Three Years * | |
|---|---|---|---|---|---|---|
| United States Postal Service | Government | District of Columbia - DC | Medium Duty & Class 8 truck & tractors<br><br>Trucks purchased:<br><br>Peterbilt Model 220 Cab-over 33,000lb GVW trucks.<br><br>Peterbilt Model 337 Conventional 33,000lb GVW trucks.<br><br>Peterbilt Model 348 Conventional 43,000lb GVW trucks.<br><br>Peterbilt Model 520 Cab-over 43,000lb GVW trucks.<br><br>Peterbilt Model 520 Cab-over 80,000lb GVW tractors. | Grand Total: 2,200 over the last 3 years | Approximately $175 Million | * |
| City of Los Angeles | Government | California - CA | Medium Duty & Class 8 trucks | 83 over the last 3 years | Approximately $10 Million | * |
| City of Phoenix | Government | Arizona - AZ | Class 8 Trucks | 59 over the last 3 years | Approximately $7.5 Million | * |
| City & County of Honolulu | Government | Hawaii - HI | Class 8 Trucks | 38 over the last 3 years | Approximately $5 Million | * |
| City of Baltimore | Government | Maryland - MD | Medium-Duty Trucks (Class 6/7) | 31 over the last 3 years | Approximately $2.5 Million | * |

### Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

| Line Item | Question | Response * | |
|---|---|---|---|
| 23 | Sales force. | Peterbilt Motors Company Factory Sales force consists of Peterbilt's General Manager (equivalent to VP/President at other companies), Assistant General Manager, 3 General Sales Managers over the U.S. & Canada that have a total of 6 Region Managers reporting to them based out of Philadelphia (East), Nashville (South), Denton/Dallas (Midwest), Chicago (Great Lakes), Scottsdale/Phoenix (West), and Toronto (Canada). Each Region Manager oversees 3-4 District Sales Managers. In addition, Peterbilt Motors has a separate Medium-Duty Sales Team (1 per Region/Canada), Vocational Sales Team (1 per Region/Canada), and National Account Sales Team (1 per Region/Canada). Peterbilt also has one National Fleet Sales Manager that is dedicated to the Sourcewell Account.<br><br>All Sales personnel mentioned above collaborate with Peterbilt's Dealer Network Sales teams which consists of 1,085 individuals throughout the US & Canada, including Sales VPs, Directors, Managers, Sales Personnel, and Sales Administrators.<br><br>Peterbilt Motors Company also has 3 Dealer Sales Councils comprised of Sales Managers and Representative from all over the US & Canada. The 3 Councils are: National-Accounts Sales Council, Vocational/Government Sales Council, and Medium-Duty Sales Council. | * |

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| 24 | Dealer network or other distribution methods. | Peterbilt Motors Company's dealer network is independently owned & operated. Peterbilt's dealer network consists of 405 locations across the US & Canada with plans to be at 430 by the end of CY2020. In addition to the dealer network, Peterbilt's dealers are supported by 7 Paccar-owned Parts Distribution Centers strategically located across the US. The Parts Distribution Centers maintain a 99% fill-rate.<br><br>In addition to Peterbilt Dealer parts inventories AND the Paccar Parts Distribution Centers, Peterbilt also offers All-Makes parts at over 300 TRP locations and online at https://trpparts.com/<br><br>Peterbilt dealers also maintain strong relationships with several Body-Manufacturers. Many of these Body-Companies are Sourcewell members and stock vehicles that utilize Peterbilt trucks. |
| 25 | Service force. | Peterbilt Motors Company maintains an extensive Corporate service force consisting of a General Manager of Service, Assistant General Manager of Service (GM titles at Peterbilt are equivalent of VP at most companies), Director of Field Service, Director of Warranty, 6 Region Service Managers located across the US (East-Philadelphia, South-Nashville, Midwest-Dallas, Great Lakes-Chicago, West-Phoenix, and Canada-Toronto). Each Region Manager has 3 District Service Managers and 2 Engine Service Managers.<br><br>The dealer network consists of 5,767 service personnel (Service Managers, Shop Foreman, Technicians, Service Advisors, Service Writers, etc.).<br><br>Peterbilt Motors Company also has a Dealer Service Council that meets multiple times annually to discuss all things service, preventive maintenance, warranty, etc. |
| 26 | Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises. | Peterbilt's Customer Service Program, TruckCare, starts with the initial request for service from the customer. Fleets can rely on Peterbilt TruckCare (https://partsandservice.peterbilt.com/roadside/) to connect them to the help they need 24 hours a day, 365 days a year. Wherever in the U.S. or Canada, Peterbilt's dealer network will get you back on the road as fast as possible:<br><br>• Fast help when you call 1-800-4-PETERBILT<br>• Free registration<br>• Assistance with towing, jump and pull starts, tires, mechanical repairs and preventive maintenance services<br>• An efficient roadside assistance system that tracks all aspects of your job<br>• Custom-mapping technology including On-board diagnostics through SmartLinq that locates the nearest Peterbilt dealer, other PACCAR dealer or independent service provider to best assist you<br>• Personalized customer profiles to specify your roadside assistance preferences<br>• Bilingual representatives and translation service to ensure quality assistance in any language<br><br>Peterbilt Dealers must achieve a year-to-date TruckCare Preventive Maintenance Customer Service Score of 90% or higher from Peterbilt Motors Company. The Preventive Maintenance Customer Service Score for each dealer location will reflect a score based upon the following criteria:<br><br>1. Dealer's ability to set firm appointment<br>2. Resolving all customer complaints regarding service quality, customer treatment, or any other complaint deemed reasonable brought to the attention of the Customer Center.<br>3. Dealer holding appointment slot for customer.<br>4. Customer is not to wait longer than 1 hour from the scheduled time of the appointment<br>5. Customer to receive a completed copy of the Preventive Maintenance Inspection Form at the completion of the service.<br><br>New to Calendar Year 2020 is Peterbilt's "Platinum Service Center Certification". The program is intended to provide superior service for customers.<br>The certification process is stringent:<br>Platinum Factors for Dealerships' scores are based on factors including:<br>• Facilities and drivers lounges.<br>• Expanded hours of service.<br>• Parts availability.<br>• Triage procedure.<br>• Having certified Paccar MX engine technicians.<br>Platinum Service Center locations will receive a special designation in Peterbilt's dealer locator on the company's website as well as a plaque to showcase in their dealership.<br><br>Customer service is also a reflection of parts support; without the needed parts on hand a service event can be significantly delayed. |

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| | | Peterbilt has the parts you need, ready to ship, with a 99% fill rate. Fleets can reduce their inventory levels and gain security by relying on Peterbilt's dealer network of over 405 locations with 7 regional Parts Distribution Centers strategically located across the U.S. Fleets can be set up with Not-to-Exceed Pricing, Consolidated Billing, and dedicated Account Support locally and nationally.<br><br>Response time capability:<br><br>Rapidcheck:<br><br>Available at all Peterbilt Dealer service locations, Rapidcheck provides a Diagnostic check within 2 hours of truck drop-off; No appointment necessary. Rapid Check guarantees the following within 2 hours of when the work order is started:<br><br>Run initial diagnostic testing on the vehicle<br>Determine needed repairs or if more complete diagnoses is required<br>Check parts availability<br>Provide an estimate of when the vehicle repairs will be complete<br>Communicate all findings to the customer<br>With customer permission, repairs that can be completed within 2 hours will be carried out<br><br>Response Time Capability:<br><br>Mobile Service:<br><br>Peterbilt's dealer network operates a fleet of 100+ mobile repair trucks; the fleet is growing rapidly. Mobile service allows for fast response to problems where the customer cannot or prefers not to bring their vehicle to the Peterbilt dealer location. Common in remote areas or areas where traffic is heavy and therefore drive time to/from dealer is not ideal.<br><br>Peterbilt also offers National Account Warranty Programs that include:<br>Access to online truck service & option database (E-Portal), Online electronic parts catalog (ECAT), and Field Service Bulletins<br>Option to perform in-house warranty repairs with a sponsoring Dealer Filing Warranty Claims on Behalf of Fleet (Dealer Sponsored) OR Fleet filing direct with Peterbilt (Direct Fleet)<br>Discounted and/or free diagnostic tools | |
| 27 | Identify your ability and willingness to provide your products and services to Sourcewell participating entities in the United States. | Peterbilt's full product line and support services are available to ALL Sourcewell participating entities in the United States. | * |
| 28 | Identify your ability and willingness to provide your products and services to Sourcewell participating entities in Canada. | Peterbilt's full product line and support services are available to ALL Sourcewell participating entities in Canada. | * |
| 29 | Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract. | N/A - Peterbilt services ALL geographic areas in the US & Canada. | * |
| 30 | Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract? | N/A - Peterbilt will fully service ALL Sourcwell participating entity sectors. | * |
| 31 | Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories. | N/A - No specific contract requirements or restrictions apply to Sourcewell entities in Hawaii, Alaska, or other US Territories. | * |

## Table 7: Marketing Plan

| Line Item | Question | Response * | |
|---|---|---|---|
| 32 | Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response. | Peterbilt Motors Company Marketing strategy for promoting the Sourcewell Contract consists of the following:<br><br>Internal Dealer Bulletins (sent out to all Dealers Management & Sales Personnel) that announce the program, describe the program, provide pricing, and contact details.<br><br>Peterbilt Intranet site: Sourcewell is the ONLY entity that has it's own dedicated page on Peterbilt Motors' internal website. The site contains an overview of the program, quick reference guide, customer presentation template, pricing guide, contact information & more.<br><br>Peterbilt has and will promote Sourcewell at all Vocational/Government shows, conferences, and expos at which we exhibit; NTEA Work Truck Show, WasteExpo, Electric Utility Fleet Managers Conference (EUFMC), International Construction and Utility Electrical Expo (ICUEE), etc. This includes Peterbilt created marketing materials (see attached) as well as Sourcewell provided pop-ups, flags, truck vinyl logos, etc.<br><br>All of Peterbilt's on-site training events include a module on Sourcewell. On-site training is held at Peterbilt's manufacturing locations on a quarterly basis and is open to all Dealer personnel. In addition to training held at Peterbilt facilities, Peterbilt also holds sales/product training at most major shows (NTEA, WasteExpo, etc) that also include module on Sourcewell.<br><br>Peterbilt markets our Sourcewell contract on Social Media (Facebook, Twitter, LinkedIn).<br><br>Peterbilt's dealer network actively promotes their participation in the Peterbilt Sourcewell contract through their websites, social media, and exhibition at various shows including local and regional APWA events.<br><br>See attached "Marketing Plan" in documents section. | * |
| 33 | Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness. | Peterbilt Motors has and will continue to market Sourcewell on our Facebook page and Twitter account. Peterbilt will significantly increase our social media posts in general over the next several years with Sourcewell being part of that.<br><br>Peterbilt's dealer network utilizes Facebook, Twitter, and LinkedIn primarily to promote their participation in the Sourcewell contract and to make announcements regarding customer procurement via the contract, etc. | * |
| 34 | In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process? | Sourcewell's role in promoting contracts arising out of this RFP would be to announce the contracts on their website and conduct email campaigns to Sourcewell members. Sourcewell's role is to continue to be present at major shows, expositions, and conferences to actively promote Sourcewell in general and provide assistance to contract holders to actively promote their specific contracts, including providing marketing materials, pop-up flags, truck decals, etc. Sourcewell should continue to offer sponsorship opportunities at major events for contract holders to participate - example) Peterbilt Motors sponsored the "Public Procurement Reception" at WasteExpo in CY2020.<br><br>Peterbilt Motors Company integrates the Sourcewell contract by setting sales goals for its District Sales Managers and Vocational Sales Managers that involve key government/municipal target accounts in their territories with an emphasis on promoting our Sourcewell Contract.<br><br>Peterbilt Dealers are provided with presentation templates, marketing material, and filtered spreadsheets of all Sourcewell members in their specific areas of operation. Sales Blitzes and joint sales calls with factory personnel are held monthly. | * |
| 35 | Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it. | Peterbilt products are not available through an e-procurement ordering process; only through Peterbilt Dealers and Sourcewell Member Body-Companies that sell complete/turnkey units to Sourcewell members. | * |

## Table 8: Value-Added Attributes

| Line Item | Question | Response * | |
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| 36 | Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply. | Peterbilt Motors Company offers on-site and on-line product training, maintenance/service training, and many other courses relevant to the municipal/vocational truck market.<br><br>Online training is available to all Sourcewell members 100% FREE of charge. Members would need to simply log into: www.peterbilt-fleettraining.com and create a username & password. Any member can take any course on the site and/or Fleet Managers can assign courses & track progress.<br><br>The following are just some of the training on the site that is available:<br><br>Engine Service<br>Low Power Visual Inspection<br>Common Rail Troubleshooting<br>Tandem Drive Axle Service<br>Axle Kingpin Replacement<br>Fuel System Flow and Components<br>Common Rail Fuel System<br>Engine Lubrication System<br>Starting and Charging Systems<br>Pending Active and Inactive Codes<br>Clearing the MIL Light<br>Smoke Analysis<br>Low Power Diagnosis<br>Manual Compression Testing<br>EGR System Diagnosis<br>Warning Lights<br>DPF System Diagnosis<br>DEF System Diagnosis<br>Turbo System Diagnosis<br>Diesel Emissions System<br>Exhaust and Aftertreatment System Diagnosis<br>NOx Sensor Diagnosis<br><br>On-site training is available from Peterbilt Motors Company Factory Training Department for a fee on a reservation basis. Training can be conducted at a Peterbilt Motors facility (factory, Region Office, etc.) or at a Sourcewell Member's fleet location.<br><br>Peterbilt's Dealer Network also offers operation, maintenance, service and other training. This training is offered for a fee on a reservation basis. |
| 37 | Describe any technological advances that your proposed products or services offer. | In addition to the standard features of Peterbilt trucks that will be listed below, Peterbilt trucks offer the following technological advances:<br><br>SmartNav:<br><br>A high-tech infotainment system, SmartNav delivers GPS navigation (truck maps), communications (integrates with cell phones) and vehicle monitoring (virtual gauges and other truck info) direct to an in-dash seven-inch color touch-screen. The SmartNav display enables intuitive interaction with an array of technologies, functions and apps, including truck camera systems. SmartNav features voice recognition and control, keeping hands on the wheel and eyes on the road. SmartNav integrates seamlessly with your phone via Bluetooth® connection and includes WiFi capability, making it easy to stay in touch no matter where you are. The integrated audio system plays through the truck speakers and can also accommodate satellite radio. The display is available in English, Spanish and French Canadian.<br><br>SmartAir:<br><br>Peterbilt’s proprietary SmartAir system provides a factory installed, no-idle climate control solution that delivers maximum<br>comfort while also reducing emissions and lowering fuel costs.<br>The SmartAir system is powered by four, heavy-duty AGM batteries that are charged during normal driving conditions. When<br>the engine is off, SmartAir provides quiet, effi cient, high-power cooling capacity for up to 10 hours on a single charge.<br>Peterbilt’s SmartAir design features one of the smallest footprints in the industry. It also features on-board diagnostics, full automatic temperature control in A/C and heating modes and a digital LCD<br>display that makes it easier to control the unit and provides battery monitoring. The system is fully integrated with Peterbilt’s existing sleeper HVAC systems, resulting in increased cooling performance,<br>enhanced reliability, reduced maintenance and lower overall operating costs.<br><br>SmartLinq:<br><br>Peterbilt’s SmartLINQ remote diagnostic system complements fleet management operations by providing real-time notifications should a<br>vehicle’s onboard diagnostics system generate a service event. This easy-to-use, web-based |

system helps you prioritize which trucks should be serviced at the next convenient opportunity or which may need immediate attention. SmartLINQ provides four levels of notification – Stop Now, Service Now, Service Soon and Informational – as well as the fault codes generated from any vehicle requiring service. SmartLINQ allows the fleet to proactively schedule a service appointment with a Peterbilt dealer to ensure the needed resources are available when the vehicle arrives for service, getting your truck back on the road as quickly as possible. With SmartLINQ, Peterbilt helps you eliminate unscheduled downtime.

Collision Mitigation:

Peterbilt offers both the Bendix Wingman Collision Mitigation System as well as the Meritor OnGuard System. These systems utilizes forward radar detection to provide driver alerts and active braking when objects are detected in the road or if closing on the vehicle ahead. Systems also offer lane-keeping technology as well as side object detection. Camera-integrated option provides enhanced object detection and can even read speed limit signs and alert drivers if over the limit. Systems can provide electronic stability control to prevent rollovers as well as adaptive cruise control with reduces throttle and/or applies the service brakes to maintain safe distance with vehicles ahead.

HID + LED headlights:

Peterbilt offers both High-Intensity-Discharge headlights and LED headlights. HIDs provide the best available forward visibility, while LEDs provide superior wide-range/close-range lighting

Predictive Cruise:

Predictive Cruise if offered and provides (via forward radar sensor) for automated reduced throttle and/or service brake application to maintain safe distance with vehicles ahead.

Driver Performance Assistant:

When manual transmission is specified, Driver Performance Assistant provides a visual aid to drivers to encourage them to operate in the vehicles RPM "sweet spot" as well as "shift now" notifications to optimize shift patterns for operational efficiency and improved fuel economy.

Driver Information Display:

The standard Peterbilt Driver Information Display, located in the center of the dash cluster, provides the operator with the following selections via a toggle switch: Standard view shows cruise status, park-brake status, and gear selected. Optional views show virtual gauges (i.e. voltmeter, transmission temperature gauge), engine RPM display, shut-down timer, trip information (fuel economy, miles operated, hours operated, idle time, etc.), truck information (VIN, engine make/model, transmission make/model, etc.), and diagnostics/warnings (fault codes with descriptions).

Stability Control with Automatic Traction Control:

Electronic Stability Control prevents roll-over situation by applying the anti-lock service brakes to individual wheels to maintain truck balance when taking turns.Combined with automatic traction control, the technology greatly enhances safety for drivers/fleets.

Zinc coated frame rails:

Peterbilt offers a zinc coating for it's frame rails and crossmembers that significantly reduces corrosion over the life of the truck.

Peterbilt offers a bump-fin style cooling system for extreme dirt environments to reduce wear on the engine.

Allison FuelSense:

Allison FuelSense technology optimizes shift patterns depending on the fleet's desired operating characteristics (power/max-fuel-economy/blend).

Peterbilt offers RollTek Air-Bag-equipped seats for enhanced safety in rollover accidents.

Peterbilt offers the full line of NFPA requirements including Seat & Occupancy sensor & warning, NFPA seats, NFPA grab handles, etc.

Peterbilt offers pre-wiring Provisions for fleet communication systems, camera systems, custom maintenance systems, etc.

Standard technology on Peterbilt trucks that provide value to fleets:

FRAME *

Steel rails with gussets to maximize RBM.
Huck bobtail fasteners provide a consistent and durable clamping force up to 600% greater than bolted frames. Tamper resistant round head and collar offers improved paint adhesion and corrosion resistance. Swage indicating features on collar allows for visual inspection of clamped joint.
Rubber-lined clamps along frame rail to protect air & electric lines routed in frame.
Chassis hose and wiring bundles conveniently routed through gussets provides protection for lines.

STEER AXLE

Zerk fittings on tie rod ends, king pins, and draglink ball joints for ease of maintenance and help extend service life of components.
Greaseless spring pins reduce maintenance and improve ride quality.
Cognis EMGARD® Synthetic Axle Lube reduces wear and extends maintenance intervals, resulting in increased uptime. Provides improved fluid flow to protect components in extreme cold conditions and withstand the stress from high temperatures, extending component life.
Glidekote splines on steering shaft extend service life of components.

DRIVE AXLE

Laser factory axle alignment (accurate to .030 of an inch) to improve handling and reduce tire wear.
Magnetic rear axle oil drain plug captures and holds any metal fragments in drive axle lube to extend service life.

ENGINES & RELATED SYSTEMS

Magnetic engine oil drain plug captures and holds any metal fragments in engine oil to extend service life.
Silicone radiator and heater hoses enhance value, durability and reliability.
ClimaTech extended life coolant extends maintenance intervals which reduces maintenance costs.
Constant tension and torque band clamps reduce leaks.
Stainless steel hard-line manifold reduces coolant hoses in the engine compartment to improve durability and appearance.
Thermal fuse in the air conditioning compressor clutch allows the pulley to free spin in the event of a compressor failure, thus reducing belt wear and vehicle downtime.
Weather pack silicone sealed electrical chassis connectors enhance value, durability and reliability.
Maintenance free 12V batteries provide reliable power for starting and accessories.
Stranded copper battery cables are double aught (00) or larger to reduce resistance.
Stainless steel flex exhaust tubing & clamps provide durability.
Optimized exhaust routing to simplify the truck order process and provide optimal performance.

AIR SYSTEM

Teflon-lined, stainless steel braided compressor discharge hose provides long service life in high operating temperatures.

FUEL TANKS

Aluminum fuel tanks with heavy-duty aluminum brackets and stainless steel straps.
Wire braid fuel lines increase durability and reduce potential for leaks.

ELECTRICAL SYSTEM

Multiplex electrical design utilizing the industry standard J1939 data bus that sends multiple signals over a single wire instead of having an individual wire for each function. This allows each component (engine, transmission and instrumentation) to communicate to each other. This design improves reliability and offers increased functionality.
Proprietary Electronic Service Analyst (ESA) allows dealer to monitor the electrical system, isolate sensors and gauges, and keep a log of service history.
Braided chassis harness cover provides durability.
Convoluted tube covering on harnesses protects from chaffing.
Wires numbered every 4 inches or less for ease of serviceability.

CAB / HOOD

Proprietary all-aluminum cab is light weight and durable for long service life.
Spring assisted, hood opening for serviceability.
Proprietary anti-blow-down locking mechanism that keeps the hood open during servicing and prevents unintentional closing.
One piece roof reduces potential for leaks.
Lap seam construction and aircraft fasteners has greater clamp load than rivets.

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| | | Double wall stamped aluminum doors provide virtually water-tight, rattle-free performance.<br>Full length, light weight hidden gravity-hinge system that provides low resistance and ease for closing doors providing durability.<br>Interior Left and Right Side Grab Handles for easy access into the cab.<br><br>CAB INTERIOR<br><br>LH & RH door mounted map pockets with door mounted step lights<br>Cast rubber flooring with integral sound barrier.<br>Integrated "dead pedal" for driver comfort.<br>Four ergonomically positioned entry / egress grabhandles<br>Proprietary non-slip threshold plate accented with a chrome inset and Peterbilt Red Oval adds a touch of Peterbilt class to safety and convenience.<br><br>LIGHTS<br><br>Projector module pod headlights provide outstanding visibility.<br>'Headlight On Warning' when headlights are active with door open and ignition off. The high beam headlamp icon flashes and sounds an audible alarm.<br>Headlights turn on automatically when windshield wiper blades are activated.<br>Lighting system is protected by an impact resistant Lexan® lens and requires no special tools for lamp adjustment or bulb replacement.<br><br>DASH & INSTRUMENTATION<br><br>Driver Information Display that allows the driver to view diagnostic information and monitor truck system behavior. Information such as fuel economy, optimum engine speed and engine and transmission system management provides driver feedback and improves operating performance.<br>Dash features an "in-mold" color process that imbeds the color into the material making the color permanent and eliminating peeling and fading.<br>LED backlit gauges to prevent eye fatigue.<br><br>PAINT<br><br>Dupont Imron Elite two-stage non-metallic paint, one color cab / hood. | |

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| 38 | Describe any “green” initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each. | Peterbilt offers more models with CNG & LNG engines than any other OEM and has sold more CNG/LNG trucks and offered them longer (since 1996) than any other OEM.<br><br>Peterblt's full line of engines are approved for the use of Biodiesel up to B20.<br><br>Peterbilt just launched 3 Battery-Electric-Vehicles that are for sale; (Model 220EV - available NOW) and starting in CY2021 (Model 520EV & Model 579EV).<br><br>Investing in Sustainable Operations:<br><br>All Company manufacturing locations that have been in operation for more than two years have achieved ISO14001 certification.<br>The Company has invested $160 million over the past ten years in facility projects that have improved energy efficiency, reduced emissions, reduced water consumption and waste including $35 million in reusable containers.<br>First in the truck industry to implement chassis robotic paint systems. This process has enhanced paint quality, reduced cost and decreased paint usage, waste and air emissions.<br><br>Reducing Greenhouse Gas Emissions<br><br>From 2009 to 2016 Peterbilt reduced greenhouse gas emissions 32% on a per revenue basis.<br>Hazardous air emissions have been reduced by over 200 metric tonnes per year in paint and other processes.<br>Peterbilt joined the CDP Reporter Services for reporting greenhouse gas emissions and to benchmark performance to continue reducing our greenhouse gas footprint.<br><br>Reducing Waste<br><br>Many of the Company’s manufacturing locations achieve “zero waste to landfill” by recycling, employing reusable containers and composting food and paper waste.<br><br>Conserving Resources<br><br>Peterbilt reduces the use of water through internal recycling, reduces paint waste through robotic paint systems and conserves energy by using new technologies such regenerative dynamometers that capture electricity from vehicle testing.<br><br>Products<br><br>All Peterbilt vehicles have near-zero emissions of NOx, a smog causing compound, and are compliant with all applicable standards including those by the California Air Resources Board (CARB), the US Environmental Protection Agency (EPA) and the European Commission.<br>Peterbilt uses Ecodesign, a software tool, to reduce environmental impacts through product design. Through this process, engineers increase recyclability of our trucks, reduce air emissions, use lighter materials to reduce fuel consumption and use fewer hazardous materials.<br><br>Fuel-Efficient, Low-Emission PACCAR Engines<br><br>Peterbilt has strengthened its leadership in environmental stewardship by expanding its global portfolio of high performing low emission engines.<br>Over the past five years, these engines have reduced GHG emissions by up to 14%.<br>NOx and particulate matter have also been reduced by over 83%. | * |
| 39 | Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors. | Peterbilt's full engine offerings all meet or exceed all Environmental Protection Agency (EPA) and California Air Resources Board (CARB) emissions requirements.<br><br>All plants that manufacture Peterbilt products are are ISO 14001:2004 and/or ISO 14001:2015 Certified.<br><br>Peterbilt offers EPA-Certified Green-House-Gas Emissions tires on all of its products.<br><br>See Line Item 38 for additional details. | * |
| 40 | Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response. | Peterbilt's Dealer Network has several dealers/groups that operate as WMBE, SBE, and/or veteran owned businesses.<br><br>Example certification (Montana Peterbilt) attached.<br><br>Other certifications/inquiries available upon request to Peterbilt Motors. | * |

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| 41 | What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities? | Peterbilt is a US based (Headquartered in Denton, Texas) company that offers the widest array of trucks in the industry. Peterbilt offers Class 5 Conventional trucks, Class 6 & 7 Cab-Over trucks, Class 6 & 7 Conventional trucks & tractors, Class 8 Conventional trucks & tractors AND Class 8 Cab-Over trucks & tractors.<br><br>No other OEM has the variety of trucks offered by Peterbilt Motors.<br><br>This allows for a Sourcewell member fleet to procure all of their trucks from one OEM/Dealer. This "one-stop-shopping" benefits the member through a single source for all trucks, parts, and service needs, streamlining their operations. For example, if a fleet needs a large cab-over refuse truck, a small cab-over for paint striping, and a conventional tandem truck for a dump/plow application, Peterbilt is the ONLY OEM that can provide all 3 trucks.<br><br>Peterbilt offers Class leading re-sale values on all of its trucks. If/when a Sourcewell Member trades/sells/auctions its used Peterbilts they will get significantly more than any competitor. This is reflected in NADA book values and can also be extracted from "Truck Paper" pricing.<br><br>94% of Peterbilt trucks in-serviced in Calendar Year 1999 were still in-serviced in Calendar Year 2019 94% of 20-year-old trucks were still being put into service. This is a testament to Peterbilt's design philosophy of durable, reliable, custom engineered work trucks. | * |

## Table 9: Warranty

**Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.**

| Line Item | Question | Response * | |
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| 42 | Do your warranties cover all products, parts, and labor? | Yes. See attached for full warranty schedule. For extended warranty information, members can reach out to their local Peterbilt dealer or Peterbilt's Sourcewell manager listed on the contract. Hundreds of different combinations of extended warranties are available, including custom warranties to match the members needs (ex - more years, less miles/yr, etc.) | * |
| 43 | Do your warranties impose usage restrictions or other limitations that adversely affect coverage? | No. | * |
| 44 | Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs? | Yes. | * |
| 45 | Are there any geographic regions of the United States (and Canada, if applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair? | No. | * |
| 46 | Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer? | Typically warranty for components added to a truck AFTER FACTORY DELIVERY (i.e. a Refuse Body or Dump Body, etc.) is covered by the OEM/Dealer/Distributor for that Body.<br><br>However, a number of Peterbilt Dealers are authorized distributors and/or service locations for other manufacturers/Body-Companies and can therefore provide warranty support.<br><br>Peterbilt Dealer locations that are also authorized dealers/distributors for other manufacturers/Body-Companies can be researched via the Peterbilt dealer or manufaturer/Body-Company website or by contacting the Peterbilt Motors National Account Manager that manages the Sourcewell Contract listed on the Peterbilt landing page on the Sourcewell website. | * |
| 47 | What are your proposed exchange and return programs and policies? | Exchange & return policies for trucks are at the discretion of the individual Peterbilt dealer providing the vehicle. | * |
| 48 | Describe any service contract options for the items included in your proposal. | Service contracts direct through Peterbilt Motors would only be available through Peterbilt's company-owned Lease operations (PacLease).<br><br>The majority of service contract options would be handled through Peterbilt Motors dealer network.<br><br>Most Peterbilt Dealers offer service contracts that provide a variety of options i.e. Preventive Maintenance, towing services, DOT inspections, tire exchange programs, oil analysis, winter prep, etc.<br><br>Most Peterbilt dealers can also offer on-site technicians, mobile-service, and full-maintenance-contracts. | * |

### Table 10: Payment Terms and Financing Options

| Line Item | Question | Response * | |
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| 49 | What are your payment terms (e.g., net 10, net 30)? | Payment terms are at the discretion of Peterbilt Dealers and vary depending on the type of truck purchased, body installed (if applicable), lead-times for components, etc.<br><br>Payment terms are negotiable - typically Peterbilt dealers can provide payment terms that match what the Sourcewell member requests. | * |
| 50 | Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions? | Yes; Peterbilt Motors offers a full range of financing options including municipal leases through Paccar Financial Corporation (PFC), a Division of Paccar (Peterbilt is also a Division of Paccar).<br><br>In addition to PFC, Peterbilt dealers can provide financing options through various banks and other financial partners. Also, many Dealer Groups operate their own finance companies and can provide options for Sourcewell members. | * |
| 51 | Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell participating entities' purchase orders. | Peterbilt Motors has created a special sales code that is added electronically in our "Truck Specification Software" that designates the truck(s) being ordered as a Sourcewell transaction. Peterbilt dealers submit Sourcewell orders electronically to Peterbilt Motors. A quarterly report is generated that shows all trucks that were ordered with the code. Peterbilt's Sourcewell Manager then cross references the code with warranty start dates to determine what trucks were put into service during that particular quarter. Although not required by Sourcewell, Peterbilt Sourcewell Manager then obtains copies of all invoices to the Sourcewell members for those trucks and verifies pricing. The trucks are then loaded onto the Sourcewell quarterly report and submitted to Sourcewell and at the same time submitted to Peterbilt accounting for check processing to pay Sourcewell.<br><br>All purchase orders from Sourcewell members go directly to and are processed by Peterbilt dealers.<br><br>For trucks on the ground that were not ordered for particular Sourcewell deals (stock trucks), dealers submit pricing to Peterbilt's Sourcewell Manager to verify that the sell price meets our Sourcewell contract pricing. Those "stock trucks" are then added to the quarterly tracking database. | * |
| 52 | Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process? | No. | * |

### Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as desribed in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

| Line Item | Question | Response * | |
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| 53 | Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response. | See attached Peterbilt-Sourcewell Pricing.<br><br>Peterbilt will continue with pricing that provides a %-off-of-list format. Peterbilt's published Sourcewell pricing lists sample MSRP/List prices for each model offered.<br><br>Peterbilt will provide pricing for EVERY model we offer. Sourcewell members need to simply have their local Peterbilt dealer build their truck specification, obtain the specification from the dealer with the final list price. Member then takes the appropriate % (varies by Model) off of that list price to give them their final ceiling price for the truck. Price includes Peterbilt's factory freight and the Peterbilt dealer's profit & pre-delivery-inspection.<br><br>Pricing does not include any components or services provided by the dealer - ex) Body, additional components like lights, cameras, etc., additional fuel, truck clean-up, local delivery, etc.<br><br>Also not included are any extended coverages requested and any engineering vehicle layout drawings if needed.<br><br>*** Medium-Duty/Heavy-Duty Commercial trucks do not have true MSRPs - list prices can vary greatly depending on options. For example, the difference between a manual transmission and automatic transmission can be $10,000+ in list price. Aggressive deep-lug all terrain tires can add $5,000+.<br><br>Battery-Electric-Vehicles (BEV) will be priced using the same method as described above for the cab & chassis (truck) except that the BEV Systems cost will be added to the cab & chassis price separately. | * |
| 54 | Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range. | Peterbilt's discount for the Sourcewell contract is a %-off-of-List-Price format. The %-off yields truck pricing that is equalized to our best Marketing Program at the time of the RFP which will provide for substantial savings for Sourcewell members.<br><br>As per the comments in Line Item 53, Price is established by taking the appropriate % (varies by Model) off of the final list price of the truck (after dealer specs the truck per the Sourcewell member's specifications). Price yielded includes Peterbilt's factory freight and the Peterbilt dealer's profit & pre-delivery-inspection.<br><br>Pricing does not include any components or services provided by the dealer - ex) Body, additional components like lights, cameras, etc., additional fuel, truck clean-up, local delivery, etc.<br><br>Also not included are any extended coverages requested and engineering vehicle layout drawings if needed.<br><br>See attached Pricing Proposal.<br><br>To sum up the pricing proposal, Sourcewell Members will get the following discounts:<br><br>Model 220: 23%<br>Model 325: 27%<br>Model 330: 31%<br>Model 337: 32%<br>Model 348: 35%<br>Model 365: 43%<br>Model 367: 43%<br>Model 567: 43%<br>Model 579: 44%<br>Model 389: 44%<br>Model 520: 42%<br><br>Example: Sourcewell member works with local dealer to build a spec for a Model 348 and final list price with all options is $130,000. Sourcewell member simply takes 35% off of that and the number yielded is what they would pay for the truck. $130,000 - $45,500 ($130,000 X 35%) = $84,500. | * |

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| 55 | Describe any quantity or volume discounts or rebate programs that you offer. | Peterbilt Motors Company AND its Dealers will provide quantity/volume discounts on a case by case basis - simply contact local dealer or Peterbilt Sourcewell contract manager. Typically this would be for transactions of 10 or more trucks.<br><br>Rebates are also available for purchases of 10 or more trucks. For rebate structure/questions, etc., Sourcewell member will simply need to contact Peterbilt's Sourcewell Contract Manger. | * |
| 56 | Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request. | Peterbilt dealers can provide turnkey solutions for Sourcewell Members. Peterbilt dealers can provide one invoice that includes the truck cab & chassis and all other components required on the vehicle.<br><br>Examples of such components (or "sourced goods"):<br><br>Bodies (refuse, dump, vacuum, etc.)<br>Accessories (plows, additional lights, cameras, etc.)<br><br>Peterbilt dealers will provide both Bodies & Accessories at cost plus a maximum of 10%. Cost plus 10% amount may not exceed $7,000 for Bodies & Accessories. | * |
| 57 | Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer. | Items not included in Peterbilt's "%-off-of-List-Price" pricing are mentioned in Line Items 53 & 54.<br><br>Truck (cab & chassis) price calculated from %-off-of-list-price equation includes Peterbilt factory freight charge and dealer profit and pre-delivery-inspection (PDI).<br><br>Price does not include any component or service provided post factory delivery.<br><br>Examples of components/services NOT included from Peterbilt Motors:<br><br>Extended truck warranty<br>Extended engine warranty<br>Peterbilt Engineering Vehicle layout drawings<br><br>Examples of components/services NOT included from Peterbilt Motors and provided by the Peterbilt Dealer:<br><br>Body<br>Federal Excise Tax (FET) - if applicable<br>Other taxes<br>Doc fees<br>local delivery<br>clean-up/truck wash<br>additional manuals<br>training<br>additional lights<br>camera systems<br>additional fuel<br>additional diesel exhaust fluid | * |
| 58 | If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program. | Freight from the Peterbilt factory where the truck is being manufactured to the 1st delivery point (either Body-Company or Peterbilt Dealer) IS included in Peterbilt's Sourcewell pricing.<br><br>Delivery of truck from the Body-Company or Peterbilt Dealer to the Sourcewell member is NOT included in Peterbilt's Sourcewell pricing and will be called out as a separate line item on the Body Company invoice and/or the Peterbilt dealer final invoice. | * |
| 59 | Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery. | Terms for freight, shipping, and delivery to Alaska, Hawaii, Canada, and Puerto Rico no different that US from a pricing perspective.<br><br>Time to ship estimated at 2-3 additional weeks for Alaska/Hawaii/Puerto Rico | * |
| 60 | Describe any unique distribution and/or delivery methods or options offered in your proposal. | Peterbilt Motors dealers can offer delivery spread out across a calendar year and sometimes 2-3 years at the same price (depending on purchase volume) or max 1% increase per year. Trucks can be delivered at intervals that suit the Sourcewell members need/budget.<br><br>Peterbilt dealer can also offer to "stock" trucks that match Sourcewell Members' specifications and have them ready to deliver asap. | * |

## Table 12: Pricing Offered

| Line Item | The Pricing Offered in this Proposal is: * | Comments |
|---|---|---|
| 61 | c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments. | Peterbilt pricing proposal reflects our best Marketing Program offered YTD in CY2020 and due to limits placed on dealer profit/pdi and other costs, the final pricing is better than what is typically offered. |

## Table 13: Audit and Administrative Fee

| Line Item | Question | Response * |
|---|---|---|
| 62 | Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. | As noted in Line Item 51, Peterbilt Motors has created a special sales code that is added electronically in our "Truck Specification Software" that designates the truck(s) being ordered as a Sourcewell transaction.<br><br>Peterbilt dealers submit Sourcewell orders electronically to Peterbilt Motors. A quarterly report is generated that shows all trucks that were ordered with the code.<br><br>Peterbilt's Sourcewell Manager then cross references the code with warranty start dates to determine what trucks were put into service during that particular quarter.<br><br>Although not required by Sourcewell, Peterbilt Sourcewell Manager then obtains copies of all Peterbilt dealer invoices to the Sourcewell members for those trucks and verifies pricing meets the Sourcewell Contract.<br><br>The trucks are then loaded onto the Sourcewell quarterly report and submitted to Sourcewell and at the same time submitted to Peterbilt accounting for check processing to pay Sourcewell.<br><br>For trucks on the ground that were not ordered for particular Sourcewell deals (stock trucks), and therefore do not have the Sourcewell electronic code on them, dealers have been formally instructed through Peterbilt's Sourcewell dealer training material to notify Peterbilt Motors of any stock trucks that sell to a Sourcewell member. Dealers must also submit pricing for those stock trucks to Peterbilt's Sourcewell Manager to verify that the sell price meets our Sourcewell contract pricing. |
| 63 | Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.) | Peterbilt Motors proposes to continue to offer the flat $500/truck administrative fee that was provided for our current Sourcewell contract. |

## Table 14A: Depth and Breadth of Offered Equipment Products and Services

| Line Item | Question | Response * |
|---|---|---|

| | | |
|---|---|---|
| 64 | Provide a detailed description of the equipment, products, and services that you are offering in your proposal. | Peterbilt Motors offers the widest product line in the industry for Sourcewell members.<br><br>Peterbilt offers the following products:<br><br>Model 220: Cab-over cab. Truck configuration only (no tractor). 26,000 LBS GVW – 33,000 LBS GVW. 6.7 Liter diesel engine. Automated/automatic transmissions. Common applications include Street-Sweepers, Paint-Stripers, Stake-bed-trucks, and Van-body-trucks.<br><br>Model 325: Conventional cab. Truck configuration only (no tractor). 19,500 LBS GVW. 6.7 Liter or 9 Liter diesel engine. Automated/automatic transmissions. Common applications include Service/Mechanics-trucks, Stake-bed-trucks, flat-bed-trucks, and Van-body-trucks.<br><br>Model 330: Conventional cab. Truck configuration only (no tractor). 26,000 LBS GVW. Paccar 6.7 Liter or 9 Liter diesel engine. Automated/automatic transmissions. Common applications include Service/Mechanics-trucks, Stake-bed-trucks, flat-bed-trucks, and Van-body-trucks.<br><br>Model 337: Conventional cab. Truck or tractor configuration. 26,000 LBS – 33,000 LBS GVW (52,000 LBS GVWR). 6.7 Liter or 9 Liter diesel engine. Automated/automatic or manual transmissions. Common applications include Dump-trucks, Van-body-trucks, hook-lift-trucks, and Utility-trucks.<br><br>Model 348: Conventional cab. Truck or tractor configuration. 33,000 LBS – 66,000 LBS GVW & GVWR. 6.7 Liter or 9 Liter diesel or CNG/LNG engine. Automated/automatic or manual transmissions. Common applications include Dump/Plow-trucks, Vacuum-trucks, Crane-trucks, Refuse/Waste Collection-trucks and Tank-trucks.<br><br>Model 365: Conventional cab. Truck or tractor configuration. 66,000 LBS – 80,000+ LBS GVW & GVWR. 9 Liter, 11 Liter, and 13 Liter diesel engine and 9 Liter and 12 Liter CNG or LNG engine. Automated/automatic or manual transmissions. Common applications include Dump-trucks, Vacuum-trucks, Tank-trucks, and Crane-trucks.<br><br>Model 367: Conventional cab. Truck or tractor configuration. 80,000+ LBS GVW & GVWR. 13 Liter and 15 Liter diesel engine. Automated/automatic or manual transmissions. Common applications include Heavy-haul-tractors, Heavy-Dump-trucks, Tank-trucks, and Vacuum trucks.<br><br>Model 567: Conventional cab. Truck or tractor configuration. 66,000 LBS – 80,000+ GVW & GVWR. 9 Liter, 11 Liter, 13 Liter, and 15 Liter diesel engine. Automated/automatic or manual transmissions. Common applications include Dump-trucks, Crane-trucks, Tank-trucks, and Low-Boy-tractors.<br><br>Model 579: Conventional cab. Tractor configuration only (no truck). 66,000 LBS – 80,000 LBS GVWR. 9 Liter, 11 Liter, 13 Liter, or 15 Liter diesel engine and 12 Liter CNG or LNG engine. Automated/automatic or manual transmissions. Common applications include Van-Body-tractors, Flat-Bed-tractors, Tanker-tractors, and Low-Boy-tractors.<br><br>Model 389: Conventional cab. Tractor or truck configurations. 80,000+ LBS GVW & GVWR. 13 Liter or 15 Liter diesel engine. Automated/automatic or manual transmissions. Common applications include Heavy-haul-tractors, Heavy-Dump-tractors, Low-Boy-tractors, and Heavy-Dump-trucks.<br><br>Model 520: Cab-over cab. Truck configuration and limited tractor configurations. 66,000 LBS – 80,000 LBS GVW and 80,000 LBS GVWR. Automated/automatic or manual transmissions. Common applications include Refuse/Waste-Collection-trucks (Rear-Load, Automated-Side-Loader, Front-Loader, etc.), Paint-Striping-trucks, and Concrete-Pumping-trucks.<br><br>Additional details can be found at https://www.peterbilt.com/trucks |
| 65 | Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services. | Truck & related Parts:<br><br>Peterbilt Motors Company and its sister division, Paccar Parts can provide comprehensive parts solutions (all makes/all models) for Sourcewell members. Some members can qualify for National Account Parts pricing depending on volumes. Paccar Parts offers and "Online Parts Counter" (https://parts.peterbilt.com/), 24/7-365 parts ordering, consolidated billing, and Universal Credit Lines.<br><br>In addition, Several Peterbilt Dealers operate very large Parts operations with their own dedicated distributions centers and can provide comprehensive parts solutions to Sourcewell members by way of substantial discounts, delivery service, and inventory management services. |

## Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below what Classes of equipment are offered in this proposal.

| Line Item | Category or Type | Offered * | Comments | |
|---|---|---|---|---|
| 66 | Class 8 chassis | (•) Yes ( ) No | Conventional cab & Cab-Over. Trucks & tractors. Body-installation unlimited. Up to 160,000 LBS GVWR. | * |
| 67 | Class 7 chassis | (•) Yes ( ) No | Conventional cab & Cab-Over. Trucks & tractors. Body-installation unlimited. Up to 33,000 LBS GCW and 66,000 LBS GVWR | * |
| 68 | Class 6 chassis | (•) Yes ( ) No | Conventional cab & Cab-Over. Trucks & tractors. Body-installation unlimited. Up to 26,000 LBS GVW and 52,000 LBS GVWR | * |
| 69 | Class 5 chassis | (•) Yes ( ) No | Conventional cab. Truck only. Body-installation unlimited. Up to 19,500 LBS GVW | * |
| 70 | Class 4 chassis | ( ) Yes (•) No | Peterbilt does not offer Class 4 chassis. | * |

## Table 15: Industry Specific Questions

| Line Item | Question | Response * | |
|---|---|---|---|
| 71 | If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract. | 1) Peterbilt Motors tracks market share for several segments, 1 of which is Government/Municipal/etc. Peterbilt Sales force and Dealer Network are graded heavily on market share performance, both by Peterbilt Senior & Executive Management but also by Peterbilt's parent company, PACCAR, Inc. Performance regarding market share is weighted heavily for Peterbilt department evaluations (i.e. Vocational/Government Sales Team, Medium-Duty Sales Team, etc.) as well as individual evaluations and effects individual compensation.<br><br>2) Peterbilt Motors created a specific tracking sales-code for Sourcewell transactions. This code is entered by Peterbilt dealers when truck specifications are created for Sourcewell members and is tied to the specification when it is submitted for final order. This allows Peterbilt to track all Sourcewell ordered trucks. In addition, dealers are required to submit VIN numbers for all stock trucks that sell to Sourcewell members. Stock trucks are trucks ordered for dealers to put on the ground in inventory to sell to the general public and therefore are not ordered with the Sourcewell tracking code. Dealers must submit their stock-truck Sourcewell sales quarterly to Peterbilt Motors.<br><br>Using this data, Peterbilt recognizes the highest volume Dealer-Group with the "Sourcewell Most Valuable Partner" award annually and in addition recognizes the #1 Sales Person nationally. Monthly standings are sent out to the Dealer Groups & Individuals to encourage participation & competition. | * |

| | | | |
|---|---|---|---|
| 72 | Describe your company's offering in relation to alternative fuel sources, including electric or others. | Peterbilt Motors Company is the industry's #1 provider of Compressed Natural Gas (CNG) and Liquefied Natural Gas (LNG) trucks & tractors. Peterbilt has been selling CNG/LNG trucks for over 20 years.<br><br>Peterbilt offers the Cummins L9N & ISX12N in several models: Model 337 (truck or tractor), Model 348 (truck or tractor), Model 567 (truck or tractor), and Model 520 Cab-Over (truck only).<br><br>All of Peterbilt's engines (PX7, PX9, MX-11, and MX-13) as well as the Cummins engines offered by Peterbilt (X15) are compatible with Bio-diesel up to 20% (B20).<br><br>Peterbilt Motors also offers the broadest range of Battery-Electric-Vehicles (BEVs) on the market.<br><br>Peterbilt offers 3 distinct Models of BEVs:<br><br>Peterbilt Model 220EV. Cab-Over; truck configuration. Commons applications include box/van for delivery, stake bed, and flat-bed.<br><br>Peterbilt Model 579EV. Conventional Cab; tractor configuration. Local delivery or Port application.<br><br>Peterbilt Model 520EV. Cab-Over; truck configuration. Refuse applications. | * |
| 73 | Describe any manufacturing processes or materials utilized that contribute to chassis strength, cab strength, overall durability, driver safety that differentiate your offerings. | Each Peterbilt truck is hand-made at one of our 3 manufacturing facilities. All components that make up each individual Vehicle Identification Number (VIN) are tracked by their serial number, at what station they were installed, by what employee, using what tools, at what specific time of the day and even the exact torque value of components fastened to the truck. This allows for optimum monitoring of supplier quality, any manufacturing errors, and insight into issues in the field (i.e. - failure in the field can more easily be traced to a particular batch of parts or a particular supplier, manufacturing process may need adjusted, etc.).<br><br>Peterbilt Motors uses the highest quality materials that exceed most NHTSA, TMC, or SAE standards. All conventional cabs are aluminum in construction and use aircraft grade huck or henrob fasteners for assembly.<br><br>Chassis strength:<br><br>All OEMs use similar frame RAILS in regards to PSI/RBM - Peterbilt is the only OEM that uses FIVE 5/8" huck fasteners on each side of the crossmembers in the frame. This gives Peterbilt the absolute strongest frame in the industry - up to 600% stronger.<br>Most of Peterbilt's conventional cabs (325/330/337/348/365/367/389) are constructed of aluminum and are fastened together with adjoining aluminum sheets overlapped (lap-seam construction) and fastened with aircraft quality huck fasteners. Peterbilt's other conventional cabs (567579) use the same lap-seam process but use robotically punched henrob fasteners along with 2 adhesives (structural & acoustic) to fasten the cab together.<br>This superior frame and cab construction contributes to Peterbilt having 94% of it's trucks in-serviced in 1999 STILL being in-serviced in 2019! - Class leading durability.<br><br>Safety features include:<br><br>Bendix ESP Stability Control System<br>Bendix Wingman collision mitigation<br>Meritor OnGuard<br>Smart Traction Control<br>Battery disconnect switches<br>Auto Neutral activates with parking brake<br>Brake lock PTO control<br>Seat belt and occupancy sensor<br>Remote keyless entry<br>Optional Severe Service Cab<br>Orange/Red seat belts<br>RollTek Air-bag equipped seats<br><br>Other Peterbilt features & benefits/advantages:<br><br>FRAME<br>• Steel rails with gussets to maximize RBM.<br>• Huck bobtail fasteners provide a consistent and durable clamping force up to 600% greater than bolted frames. Tamper resistant round head and collar offers improved paint adhesion and corrosion resistance. Swage indicating features on collar allows for visual inspection of clamped joint.<br>• 3-piece C-Channel crossmember with cast gussets for the strongest crossmembers in the industry. | |

- Each crossmember is attached with FIVE 5/8” huck fasteners making for the strongest frames in the industry.
- Rubber-lined clamps along frame rail to protect air & electric lines routed in frame.
- Chassis hose and wiring bundles conveniently routed through gussets provides protection for lines.
- Stanard front wheel mudflaps reduce road spray, help maintain a cleaner truck and better visibility.
- Two frame mounted tow pins standard.

STEER AXLE

- Available with set forward front axle configuration for a smoother ride or set back front axle configuration for increased maneuverability and optimized weight distribution.
- Factory front axle alignment to improve handling and reduce tire wear.
- Zerk fittings on tie rod ends, king pins, and draglink ball joints for ease of maintenance and help extend service life of components.
- Greaseless spring pins reduce maintenance and improve ride quality.
- Standard oil seals for long lasting leak protection.
- Cognis EMGARD® Synthetic Axle Lube reduces wear and extends maintenance intervals, resulting in increased uptime. Provides improved fluid flow to protect components in extreme cold conditions and withstand the stress from high temperatures, extending component life.
- Glidekote splines on steering shaft extend service life of components.

DRIVE AXLE

- Laser factory axle alignment (accurate to .030 of an inch) to improve handling and reduce tire wear.
- Magnetic rear axle oil drain plug captures and holds any metal fragments in drive axle lube to extend service life.
- Parking brakes on ALL drive axles for optimal performance.
- Cognis EMGARD® Synthetic Axle Lube for all Rear Axles.

ENGINES & RELATED SYSTEMS

- Magnetic engine oil drain plug captures and holds any metal fragments in engine oil to extend service life.
- Silicone radiator and heater hoses enhance value, durability and reliability.
- ClimaTech extended life coolant extends maintenance intervals which reduces maintenance costs.
- Low coolant level sensor warns of low coolant condition to prevent engine damage.
- Constant tension and torque band clamps reduce leaks.
- Stainless steel hard-line manifold reduces coolant hoses in the engine compartment to improve durability and appearance.
- Thermal fuse in the air conditioning compressor clutch allows the pulley to free spin in the event of a compressor failure, thus reducing belt wear and vehicle downtime.
- Weather pack silicone sealed electrical chassis connectors enhance value, durability and reliability.
- 12 Volt System with circuit protection for reliable easy maintenance and service.
- Composite fan is light-weight but strong and corrosion resistant.
- Full fan shroud, ring and rubber boot improves under hood airflow and provides a robust fan-to-radiator shroud interface for greater cooling capacity.
- Maintenance free 12V batteries provide reliable power for starting and accessories.
- Stranded copper battery cables are double aught (00) or larger to reduce resistance.
- Stainless steel air cleaner straps, brackets and fasteners provide a durable bright finish.
- Molded rubber air intake connections with lined stainless steel clamps seal to prevent contaminants in air intake.
- Washer bottle with 1.3 gallon capacity extends maintenance intervals to refill.
- Polished stainless steel grille with a distinctive punched oval grille pattern provides a durable bright finish.
- Stainless steel flex exhaust tubing & clamps provide durability.
- Optimized exhaust routing to simplify the truck order process and provide optimal performance.
- 5" diameter chrome plated steel standpipe cools exhaust for safety.

TRANSMISSION & RELATED SYSTEMS

- Synthetic lubricant to reduce friction, improve efficiency and extend component life.
- Magnetic transmission oil drain plug captures and holds any metal fragments in transmission oil to extend service life.
- Coated driveshaft splines extend service life.
- Configured Clutch to simplify the truck order process and provide optimal performance.
- Torque limiting clutch brake

AIR SYSTEM

- Engine mounted air compressor with remote mounted air system filter dryer to

reduce moisture in air system components.
• Teflon-lined, stainless steel braided compressor discharge hose provides long service life in high operating temperatures.
• Schrader valve for charging of air system from external source.

FUEL TANKS
• Aluminum fuel tanks with heavy-duty aluminum brackets and stainless steel straps.
• Under cab fuel tanks include steps for cab access.
• Single fuel tank will receive a single draw / single return fuel system.
• Dual fuel tanks will receive dual draw / dual return fuel system equalizes fuel load.
• Top draw fuel plumbing reduces chance of introducing air into the fuel system during low fuel level conditions due to the central placement of the fuel pickup tube.
• Optimized filler neck location on under cab fuel tanks optimizes access and safety.
• Paddle handle filler cap with threadless filler neck to avoid stripping
• Wire braid fuel lines increase durability and reduce potential for leaks.

ELECTRICAL SYSTEM
• Multiplex electrical design utilizing the industry standard J1939 data bus that sends multiple signals over a single wire instead of having an individual wire for each function. This allows each component (engine, transmission and instrumentation) to communicate to each other. This design improves reliability and offers increased functionality.
• Proprietary Electronic Service Analyst (ESA) allows dealer to monitor the electrical system, isolate sensors and gauges, and keep a log of service history.
• Automatically resetting circuit breakers in selected circuits
• Braided chassis harness cover provides durability.
• Convoluted tube covering on harnesses protects from chaffing.
• Wires numbered every 4 inches or less for ease of serviceability.
• Power distribution center in cab is centrally located in a protected environment for easy access.

CAB / HOOD
• Proprietary all-aluminum cab is light weight and durable for long service life.
• Light-weight, gently sloped, hood with and one-piece grille crown improves air flow and increases visibility.
• Spring assisted 90 degree hood opening for serviceability.
• Proprietary anti-blow-down locking mechanism that keeps the hood open during servicing and prevents unintentional closing.
• Hood latch on each side secures the hood to the cowl.
• Three point rubber cab mounting
• One piece roof reduces potential for leaks.
• Lap seam construction and aircraft fasteners has greater clamp load than rivets.
• Bulkhead style doors provide virtually water-tight, rattle-free performance.
• Extruded aluminum door frames for strength and durability.
• Full length, heavy-duty piano-type stainless steel door hinges and pins provide durability.
• View window in RH door for safety.
• Electric windshield wipers and washers with intermittent wiper function
• Grab handles mounted on cab LH & RH for cab access.
• Convex mirror over RH door and below each rear view mirror for improved visibility and safety

CAB INTERIOR
• Upper and lower dash panels in a dark charcoal color that is not only easier to clean and shows less scratches and scuffs, but also improves driver visibility due to less glare.
• Contoured door pads featuring integrated ergonomic armrests for driver comfort
• LH & RH door mounted map pockets with built-in courtesy lights
• Power lift passenger window controls integrated into the door panel are within easy reach of the driver for safe and convenient operation.
• Padded vinyl headliner is easy to clean.
• Two inside sunvisors with map straps provide driver and passenger comfort and convenience.
• Two coat hooks for driver and passenger convenience.
• Integrated cup holder in dash
• Cast rubber flooring with integral sound barrier.
• Heater / air conditioner with dedicated side window defroster
• Adjustable steering column
• Key start ignition for an automotive feel.
• Ignition and doors keyed alike for driver convenience.
• Cigar lighter and ashtray with power port
• Integrated “dead pedal” for driver comfort.
• Five ergonomically positioned entry / egress grabhandles
• Proprietary non-slip threshold plate accented with a chrome inset and Peterbilt Red Oval adds a touch of Peterbilt class to safety and convenience.
• Header mounted dome light

| | | | |
|---|---|---|---|
| | | • Driver and passenger dome and reading lights<br>• Footwell lighting<br>• 12-volt power outlet in dash<br>• Peterbilt in-dash Navigation System available<br>LIGHTS<br>• State-of-the-art halogen projector module pod headlights increase visibility.<br>• 'Headlight On Warning' when headlights are active with door open and ignition off. The high beam headlamp icon flashes and sounds an audible alarm.<br>• Headlights turn on automatically when windshield wiper blades are activated.<br>• Polished cast aluminum headlight pod housing with LED side-turn indicators and an impact resistant lens matches durability with style.<br>DASH & INSTRUMENTATION<br>• Driver Information Display that allows the driver to view diagnostic information and monitor truck system behavior. Information such as fuel economy, optimum engine speed and engine and transmission system management provides driver feedback and improves operating performance.<br>• Ergonomic dash provides enhanced driver comfort and productivity.<br>• Dash features an "in-mold" color process that imbeds the color into the material making the color permanent and eliminating peeling and fading.<br>• LED backlit gauges to prevent eye fatigue.<br>• Standard warning lights with audible alarm for high coolant temperature, low oil pressure and low air pressure<br>• Warning indicators for high beam, parking brake, turn signals, low fuel, road surface ice potential<br>• Seat belt reminder<br>• Cruise control for driver convenience.<br>• Rocker switches with long-life LED indicators that are easy to reach for driver safety and convenience.<br>PAINT<br>• The best paint in the industry: Dupont Imron Elite two-stage non-metallic paint, one color cab / hood | |

| | | | |
|---|---|---|---|
| 74 | Describe any differentiating serviceability attributes (remote diagnostics, etc.) your proposal offers. | Peterbilt hoods tilt a full 90-degrees providing class-leading engine compartment access for optimum serviceability of all components. All other OEMs hood tilt at approximately 75% or worse.<br><br>In addition, Peterbilt's cabs do NOT have dog-houses which push the back end of the engine into the cab. Peterbilt's engine bay with no dog-house provides the best engine access for service in the industry.<br><br>Peterbilt's 2-piece windshield offering provides for the lowest cost AND shortest downtime when replacing broken windshields. Approximately $75 & 30 minutes vs approximately $400 & 3-4 hours vs 1-piece windshields.<br><br>Peterbilt offers individually replaceable gauges that allow for fast & inexpensive gauge replacement. Approximately 10 minutes & $50 to replace a gauge in the gauge "cluster" vs ALL other OEMs needing the entire cluster replaced if 1 gauge goes out - approximately $1,200 & 1-2 hours.<br><br>Peterbilt's cabin air filter is located out of the elements and easy to access near the passenger footwell. Other OEMs have external cabin air filters that require the windshield cowl to be removed and are exposed to the elements.<br><br>Peterbilt uses weatherpack connectors with o-ring seals on wiring connection points to keep the elements out and provide secure connections. All wires clearly numbered (every 4 inches) and include aluminum tags to help identify them for easier service.<br><br>Air lines are color-coded for simple tracing.<br><br>Published Labor Times for Common Maintenance and Repair Items Show that a Peterbilt can Save up to 20% on Labor Costs<br><br>Peterbilt conventional Medium-Duty trucks and 365/367/389 use a 3/8" piano hinge for door mounting. Other OEMs use light-duty-automotive style hinges (2). Piano hinge maintains door alignment over the life of the truck vs door alignment required for other OEMs. Improper door alignment wears the rubber-seal/weatherstripping and can even wear metal, causing element & wind noise intrusion as well as corrosion.<br><br>Peterbilt trucks come standard with on-board-diagnostics, visible to the driver via the "Driver Information Display". The on-board diagnostics will alert the driver of a fault code and provide the fault code number and a brief description. If the fault requires service soon or immediately the display will provide the driver with the level of the fault and the time (in hours) to de-rate and if severe, the time in hours to (shut-down). If, for example, a fault has a time in hours to de-rate of 5-hours and the operator has only 2 hours left in their route, they can finish their route and return to their shop or take to the dealer at the end of their route. Without on-board-diagnostics and just a simple dash light, operators would often times cut their route off as soon as the light illuminated.<br><br>Peterbilt also offers Remote-diagnostics via our SmartLinq system. SmartLinq (free for the first 2 years on all Class 8 Peterbilt Models) provides the same information noted above (on-board-diagnostics) but additionally through a desktop and/or mobile app format. The SmartLinq web portal can be set up for management by one or several fleet personnel and provides a dashboard that will display a map of all SmartLinq-enabled trucks the fleet operates. The vehicles move on the map in real time and will display color-coded symbols to denote their current operating status (i.e. green-normal, yellow-service soon, red-service now, etc.). Each truck can be clicked on for more detailed information. Email notifications can be set up to alert the fleet SmarLinq adminstrator(s) when a truck experiences a fault code and can be tailored to only alert when faults are mission disabling, etc. More information can be found at https://www.peterbilt.com/innovation/technology/smartLINQ<br><br>Peterbilt dealers offer "RapidCheck" service. Peterbilt launched the Rapid Check service program to provide diagnostics and an estimate of repairs in two hours or less.<br><br>The program is available throughout the more than 405 locations in the Peterbilt dealer network.<br><br>Within two hours, Rapid Check provides basic vehicle diagnostics, with more complex diagnostics if necessary. The information is evaluated and repairs are provided along with an estimated time needed to complete the work - again; all within 2 hours.<br><br>The service is being offered to maximize customer uptime. The service is available for ANY truck make or model, not just Peterbilt. | * |

**Exceptions to Terms, Conditions, or Specifications Form**

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

**Documents**

**Ensure your submission document(s) conforms to the following**:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.

2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.

3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.

4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- Financial Strength and Stability - paccar-2019-Annual Report.pdf - Wednesday May 06, 2020 07:48:59
- Marketing Plan/Samples - Marketing Plan.pdf - Friday May 29, 2020 11:40:01
- WMBE/MBE/SBE or Related Certificates - Montana Peterbilt LLC - MBE.pdf - Monday June 08, 2020 14:38:16
- Warranty Information - Warranty Schedule.pdf - Tuesday June 09, 2020 07:50:55
- Pricing - SOURCEWELL CUSTOMER PRICING CY2021-2024 RFP Proposal - Peterbilt Motors Company.pdf - Tuesday June 09, 2020 09:17:49
- Additional Document - Peterbilt Dealer Directory.pdf - Friday May 22, 2020 12:40:07

**Proposer's Affidavit**

## PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.

2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.

3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.

4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor’s objectivity in performing the contract is, or might be, impaired.

5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.

6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.

7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.

8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.

9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

11. Proposer its employees, agents, and subcontractors are not:

    a. Included on the “Specially Designated Nationals and Blocked Persons” list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: https://www.treasury.gov/ofac/downloads/sdnlist.pdf;

    b. Included on the government-wide exclusions lists in the United States System for Award Management found at: https://www.sam.gov/portal/3; or

    c. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☑ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Joe Curran, National Fleet Sales Manager, Peterbilt Motors Company

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

○ **Yes** ◉ **No**

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "**I have reviewed this addendum"** below to acknowledge each of the addenda.

| File Name | I have reviewed the below addendum and attachments (if applicable) | Pages |
|---|---|---|
| **Addendum_11_Class 4-8_Chassis_RFP060920**<br>Wed June 3 2020 07:52 AM | ☑ | -- |
| **Addendum_10_Class_4-8_Chassis_RFP060920**<br>Wed May 27 2020 03:40 PM | ☑ | -- |
| **Addendum_9_Class_4-8_Chassis_RFP060920**<br>Tue May 26 2020 02:51 PM | ☑ | -- |
| **Addendum_8_Class_4-8_Chassis_RFP060920**<br>Thu May 21 2020 01:21 PM | ☑ | -- |
| **Addendum_7_Class_4-8_Chassis_RFP060920**<br>Mon May 18 2020 03:30 PM | ☑ | -- |
| **Addendum_6_Class_4-8_Chassis_RFP060920**<br>Wed May 13 2020 04:40 PM | ☑ | 2 |
| **Addendum_5_Class_4-8_Chassis_RFP060920**<br>Tue May 12 2020 10:00 AM | ☑ | -- |
| **Addendum_4_Class_4-8_Chassis_RFP060920**<br>Mon May 4 2020 01:24 PM | ☑ | -- |
| **Addendum_3_Class_4-8_Chassis_RFP060920**<br>Wed April 29 2020 03:45 PM | ☑ | -- |
| **Addendum_2_Class_4-8_Chassis_RFP060920**<br>Wed April 22 2020 01:14 PM | ☑ | -- |
| **Addendum_1_Class_4-8_Chassis_RFP060920**<br>Fri April 17 2020 12:32 PM | ☑ | -- |

**AGREEMENT BETWEEN**
**THE CITY OF PITTSBURG AND**
**WESTERN TRUCK PARTS & EQUIPMENT, LLC**
**PURSUANT TO SOURCEWELL CONTRACT FROM RFP #060920**

THIS Agreement ("Agreement") is made by and between the City of Pittsburg, a municipal corporation ("City") and Western Truck Parts & Equipment Company, LLC., a California Limited Liability Company ("Western Truck") (together referred to as the "Parties") as of November 18, 2021 (the "Effective Date").

WHEREAS, Sourcewell, formerly NJPA, has undertaken competitive bidding equivalent to or better than the requirements in City's Purchasing Policy and has entered into contracts with various vendors including Peterbilt Motors Company, a Texas corporation; and

WHEREAS, City seeks to "piggyback" on a Sourcewell contract for Class 4-8 Chassis with related equipment, accessories, and services, specifically Contract from RFP #060920; and

WHEREAS, the Contract provides that additional terms and conditions or transaction documentation may be negotiated between a Sourcewell Participating Entity such as City, and the vendor; and

WHEREAS, Western Truck Parts & Equipment Company, LLC., a California Limited Liability Company, is an authorized dealer for Peterbilt Motors Company and represents and warrants that it is bound by all terms and conditions of the Contract from RFP #060920; and

WHEREAS, City seeks to add or clarify certain terms of Contract from RFP #060920.

NOW, WHEREFORE, City and Western Truck agree as follows:

1. **Governing Law and Venue.** The laws of the State of California shall govern this Agreement and Contract from RFP #060920 ("Contract"). In the event that either party brings any action against the other under this Agreement or the Contract, the parties agree that trial of such action shall be vested exclusively in the state courts of California in Contra Costa County or in the United States District Court for the Northern District of California.

2. **Workers' Compensation.** Western Truck shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Western Truck in the amount required by applicable law.

3. **Compliance with Applicable Laws.** Western Truck and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Western Truck shall also, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates as determined by the California Department of Industrial Relations.

4. **Order of Precedence.** In the event of any inconsistency between this Agreement and the Contract, the terms of this Agreement shall govern. The terms of this Agreement and the Contract shall govern over any Purchase Order from Western Truck.

5. **Representations.** Western Truck represents and warrants that it is bound by all terms in Contract from RFP #060920 to the same extent as Peterbilt Motor Company.

The Parties have executed this Agreement as of the Effective Date.

**CITY OF PITTSBURG**

_____
Garrett Evans, City Manager

**WESTERN TRUCK PARTS & EQUIPMENT, LLC**

_____
Olen Hunter, Executive Vice President

Attest:

_____
Alice E. Evenson, City Clerk

Approved as to Form:

_____
Donna Mooney, City Attorney

# Western Truck Parts & Equipment

## CUSTOMER PURCHASE ORDER

### - For New & Used Vehicles -

Contact: Mike Hoheisel - Phone: 916-224-7607 - Mobile: 916-224-7607 - Email: mike.hoheisel@dobbspeterbilt.com

*Date :* 10/28/2021
*Seller :* Western Truck Parts & Equipment
*Address:* 825 Stillwater Road
City/State/ZIP: West Sacramento, CA 95691

*Purchaser :* CITY OF PITTSBURG
*Address :* 357 E 12TH ST.
*City/State/ZIP :* PITTSBURG, CA 94565
*Phone/Contact :* 9252506866

I hereby order from you, subject to all terms and conditions contained herein and the ADDITIONAL PROVISIONS printed on the last Page of this form, the following equipment for delivery on or about :

| | | | |
|---|---|---|---|
| Stock#: ON ORDER | 2022 Peterbilt 548 | Price: | $112,426.00 |
| VIN: | | | |
| | Enoven Installed Beau-Roc 15' Dump Quote 79518 | | $46,989.00 |
| | PX9 Engine and Aftertreatment PP1 6 Years 200k Miles | | $3,465.00 |
| | Carb Base Emmissons Warranty Surcharge | | $2,460.00 |
| | Flooring for install | | $1,170.00 |
| | Freight Surcharge 2022 | | $500.00 |
| DOC Fee: | $85.00 Title Fee: $23.00 | | |
| Tire Tax: | $17.50 | Total fees: | $125.50 |
| | | Sales Tax: | $15,456.29 |
| | | **Unit Price:** | **$182,591.79** |
| | | **Total Price** | **$167,010.00** |
| | | **Total Fees** | **$125.50** |
| | | **Total FET** | **$0.00** |
| | | **Total Licensing** | **$0.00** |
| | **Tax Rate: 9.2500%, County Code:** | **Sales Tax** | **$15,456.29** |
| | | **Total** | **$182,591.79** |
| | | **TOTAL DUE:** | **$182,591.79** |

2022 Peterbilt 548 10 wheel dump. Sourcewell Contract #060920-PMC. Updated for 2022 Build and new Sourcewell Pricing. Build TBD

If the unpaid balance of cash price stated above is the proceeds of a time payment agreement as noted below, all items and conditions of that agreement are hereto made part of and an attachment to this order by this reference. _____

USED VEHICLES ARE SOLD "AS IS" WITH NO WARRANTY, unless otherwise certified by Seller in Writing.

If a trade-in is delivered to Dealer in a different condition than appraised, or its parts or attachments have been removed or substituted, then it shall be reappraised, and the difference in value shall be paid in cash to Dealer. Purchaser warrants that ownership, and titles of trade-ins are free and clear or all liens and encumbrances except as noted aand will pay in cash to Dealer any undisclosed amounts owed. If any such cash adjustment is not paid on demand, purchaser authorizes Dealer to repossess the vehicle.

PURCHASER ACKNOWLEDGES RECEIPT OF AN EXACT COPY OF THIS ORDER and the additional provisions printed on the last page.

_____ _____ 10/28/2021

Customer Acceptance Date WPI Manager Acceptance Date

This order is subject to written acceptance of the Seller by a manager as indicated below. Purchaser's deposit will be refunded if not accepted, otherwise, deposit is nonrefundable.

DE-29667-1 - 2021-25973

## ADDITIONAL PROVISIONS

1. As used in this Order the terms (a) "Seller" shall mean the Dealer to whom this Order is addressed and who shall become a party thereto by its acceptance hereof, (b) "Purchaser" shall mean the party executing this Order as such on the face hereof, it being understood by Purchaser and Seller that Seller is in no respect the agent of manufacture, that Seller and Purchaser are the sole parties to this order.
2. Upon full payment by or delivery to Purchaser said property shall be held and used at his risk, including expenses, loss or damage, taxes, and liabilities of any kind.
3. Purchaser agrees to complete payment and accept delivery within 72 hours after notification that said property is ready. If purchaser fails to make settlement as herein provided, seller may retain all moneys or property paid on account as liquidated damages, not to exceed the greater of: 1) actual costs incurred; 2) $2,500; 3) or 35% of purchase price. Trade-in property shall be accounted for at the price resold, less 15% and all reconditioning handling and selling costs.
4. Purchaser agrees not to demand or expect any equipment, parts, supplies, labor service, or rebate, unless agreed to and specified in this agreement in writing.
5. Purchaser warrants the vehicle being purchased herein is to be used for business purposes only and is not to be normally used for personal, household, or family purposes.
6. Dealer shall not be liable for failure to deliver or delay in delivery due, in whole or in part, to any cause beyond the control or without the fault or negligence of Dealer.
7. Purchaser agrees to reimburse Dealer for any and all sales, use or excise taxes imposed by law relative to the goods herein provided.
8. Purchaser agrees to accept factory ordered goods with any changes in design or materials made by the manufacturer.
9. Prices quoted for factory orders are subject to the manufacturer's price list, and in the event of a price increase Purchaser agrees to provide written notice of cancellation within five (5) days of being so advised, or accept delivery at the increased price.

### DISCLAIMER OF WARRANTY AGREEMENT

THIS MOTOR VEHICLE IS SOLD BY THE SELLER AND PURCHASED BY PURCHASER "AS IS" WITHOUT ANY WARRANTY, EITHER EXPRESSED OR IMPLIED. THE PURCHASER WILL BEAR THE ENTIRE EXPENSE OF REPAIRING OR CORRECTING ANY DEFECTS THAT PRESENTLY EXIST OR THAT MAY OCCUR IN THIS VEHICLE.

The seller does not in any way warrant the fitness of the motor vehicle for any particular use or the merchantability of the motor vehicle purchased under this contract. Whether the motor vehicle is purchased for commercial or for personal family or household use, purchaser, understands and agrees that the Seller makes no warranty whatsoever, expressed or implied, respecting the quality, characteristics, performance or condition of the motor vehicle, or any of its component parts. The Seller makes no warranty whatsoever, expressed or implied, concerning the length of time or mileage which the purchased motor vehicle will operate or travel after the date of purchase.

Purchaser expressly agrees that it is his sole responsibility to place the item(s) in a serviceable condition, to determine its safety and suitability and to determine its compliance with applicable laws and statutes.

Purchaser further agrees that the seller shall have no liability for consequential damages in the event of injury to any persons or property, or any liability for loss of use, loss of time, loss of profits or income, or any other incidental expenses arising from malfunction or defect or unfitness or deficiency of this vehicle.

_____
*(Purchaser)*

### NEW VEHICLE WARRANTY

The only warranty applying to this vehicle are those offered by the manufacture. The selling dealer hereby expressly disclaims all warranties. either express or implied, including any implied warranties of merchantability or fitness for a particular purpose and neither assumes nor authorizes any other person to assume for it any liability connection with the sale of this vehicle. Buyer shall not be entitled to recover from the selling dealer any consequential damages, damages to property, damages for loss of use, loss of time, loss of profits or income, or any other incidental damages.

_____
*(Purchaser)*

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution Authorizing an Application to the California Department of Forestry and Fire Protection Urban Forest Management Grant Program for an Urban Forest Management Plan

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

Staff recommends City Council approval of a resolution authorizing a grant application to the California Department of Forestry and Fire Protection for a project to inventory the City's trees and develop an Urban Forest Management Plan.

## FISCAL IMPACT

The grant application for $1,741,523.45, if approved for funding, will cover the cost for a tree inventory and development of an Urban Forest Management Plan and Priority Planting Project. This Project is not included in the City's Five-Year Capital Improvement Program and is not currently funded.

Grant guidelines allow the requirement for local match to be met through in-kind services from City staff and equipment used for the project. The match requirement may also be waived entirely upon approval by the funding agency. No additional funds are requested at this time.

## RECOMMENDATION

City Council adopt the Resolution authorizing an application to the California Department of Forestry and Fire Protection for the Urban Forest Management Activities Grant, allocating the funds and designating the City Manager as the authorized representative for execution of all documents required to fulfill the requirements of the grant.

## BACKGROUND

The California Urban Forestry Act of 1978 requires the State Department of Forestry and Fire Protection (CALFire) to implement a program in urban forestry to encourage better tree management and planting in urban areas.

The  department established a program to provide grants for, among other projects, projects for urban forest management activities, including the Urban Forest Management Activities Grant. The amount of each grant awarded is based on justified project costs and scope of work.

The California Department of Forestry and Fire Protection developed guidelines and reviews the applications to ensure projects are consistent with the goals of the program. Eligible projects improve long-term management of urban forests to improve urban forest performance over time. Grantees must complete projects by March 30, 2025.

If approved, the resolution approves the filing of the application for grant program funds, agrees to the terms of the funding agreement and designates the City Manager as the City's representative for purposes of grant administration.

## SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

## STAFF ANALYSIS

The City of Pittsburg maintains 26 parks and  about 74,000 trees in its parks, public properties and rights of way. The City currently manages its urban forest resource without an inventory or plan to target or measure its efforts. A management plan would increase efficiency and help target resources where they are most needed.

With this grant the City will conduct a tree inventory to establish baseline data on existing trees, secure software for this management effort, begin a tree planting/replanting program focused in our most disadvantaged neighborhoods and create a comprehensive Urban Forest Management Plan.

The goal is to develop a strategy for tree planting to increase the tree canopy.

A share of the new trees to be planted will be located in underserved areas of the City, meeting the grant program's goals for equity, reducing the impact of greenhouse gases, and producing additional environmental benefits. Expansion of the urban forest will help meet the City's goal of improving the quality of life for City residents.

Grant applications are due December 21, 2021. If approved for funding, the project would begin in 2022 and be complete in Spring 2025.

ATTACHMENTS: Resolution
Anticipated Budget

Report Prepared By: Natasha Farmer, Administrative Analyst I

# RESOLUTION

(*non-profit applicants must have resolution signature notarized*)

Resolution No.: 21-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PITTSBURG

FOR FUNDING FROM THE URBAN AND COMMUNITY FORESTRY GRANT PROGRAM OF THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION.

WHEREAS, the Governor of the State of California in cooperation with the State Legislature has appropriated General Funds for the state's urban forestry programs; and

WHEREAS, the State Department of Forestry and Fire Protection has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing application by local agencies and non-profit organizations under the program, and

WHEREAS, said procedures established by the Department of Forestry and Fire Protection require the applicant to certify by resolution the approval of application before submission of said application to the State; and

WHEREAS, the applicant will enter an agreement with the State of California to carry out an urban forestry project;

NOW, THEREFORE, BE IT RESOLVED that the **City Council of the City of Pittsburg:**

1. Approved the filing of an application for the Urban and Community Forestry grant program funds; and

2. Certifies that said applicant has or will have sufficient funds to operate and maintain the project; and,

3. Certifies that funds under the jurisdiction of the City of Pittsburg are available to begin the project.

4. Certifies that said applicant will expend grant funds prior to March 30, 2025.

5. Appoints the City Manager or a designee, as agent of the **City of Pittsburg** to conduct negotiations, execute and submit all documents including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the afore mentioned project.

**Approved and adopted the 20th day of December, 2021.**

I, the undersigned, hereby certify that the foregoing Resolution, number 21- was duly adopted by the following roll call vote of the City Council of the City of Pittsburg

Ayes: _____ Noes: _____ Absent: _____ _____(Clerk signature)

Notarized Seal:

## CAL FIRE Urban & Community Forestry Project Application Budget

| Budget Item | Description | Cost Basis | | CAL FIRE Grant Share | Grantee Match | Total |
|---|---|---|---|---|---|---|
| *A. Salaries, Wages and Benefits* | | | | *393,227.20* | *393,329.40* | *786,556.60* |
| *B. Site Preparation* | | | | *39,225.00* | *47,500.00* | *86,725.00* |
| C. Contractual | | | | *721,535.00* | - | *721,535.00* |
| D. Supplies | | | | *69,375.00* | - | *69,375.00* |
| E. Equipment | | | | *13,000.00* | - | *13,000.00* |
| F. Outreach/Education | | | | *3,400.00* | *700.00* | *4,100.00* |
| G. Other | | | | *22,367.95* | - | *22,367.95* |
| **TOTAL DIRECT COSTS** | | | | **1,262,130.15** | **441,529.40** | **1,703,659.55** |
| **INDIRECT COSTS** | | | **3%** | **37,863.90** | | **37,863.90** |
| **TOTAL PROJECT COSTS** | | | | **1,299,994.05** | **441,529.40** | **1,741,523.45** |
| **LESS Program Income** | | | | | | |
| **TOTAL GRANT PROPOSED COSTS** | | | | **1,299,994.05** | **441,529.40** | **1,741,523.45** |
| | | | | **75%** | **25%** | **100%** |

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution to Accept Project 5066, Water Treatment Plant Filter Gallery Valve Replacement Project as Complete and Authorize the City Engineer to File a Notice of Completion

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

Project 5066, Water Treatment Plant Filter Gallery Valve Replacement Project (the "Project") removed and replaced select filter valves, actuators, and spot piping repairs at the City's Water Treatment Plant. This Resolution will accept the construction contract as complete and authorize the City Engineer to file a notice of completion.

## FISCAL IMPACT

The Project was funded by $370,000 from Water Operations Fund (Fund 501) for a total approved project budget of $370,000. After payment of all expenditures for design, construction, release of retention, and project closeout, staff estimates there will be a remaining balance of $47,849. A Project Budget Summary is attached to this staff report.

## RECOMMENDATION

City Council adopt the attached resolution accepting the Project 5066, Water Treatment Plant Filter Gallery Valve Replacement Project as complete and authorizing the City Engineer to execute a Notice of Completion for the Project. Staff recommends all unspent funds be returned to the source of funds for use on other projects.

## BACKGROUND

On June 12, 2019, the City received a Condition Assessment Report (the "Report") from Brown and Caldwell that noted that most of the piping/valves were in poor condition and observed significant wall loss at both the welds and through the pipe walls.

On May 5, 2020, the City issued a task order to Brown and Caldwell in the amount of $86,400 to prepare plans, specifications, and estimate for the Project in which expenses were covered by Project 5050.

On January 19, 2021, the City Council approved Resolution 21-13884 awarding a construction contract to Con-Quest Contractors, Inc. in the amount of $224,000.

## SUBCOMMITTEE FINDINGS

This item was not reviewed by a Subcommittee.

## STAFF ANALYSIS

The Project removed and replaced select filter valves, actuators, and spot piping repairs at the City's Water Treatment Plant. During construction one contract change order was issued in the amount of $3,277.89 for mounting the old solenoids onto the new actuators.

The Contractor reached substantial completion on June 7, 2021. The one-year warranty period began on June 7, 2021.

The total anticipated expenditures for the Project are $322,151. After all Project expenditures are paid, unexpended funds totaling $47,849 will be returned to the source for use on other projects.

The project was completed on time and within the budget approved by the City Council.

ATTACHMENTS: Resolution
Budget Summary

Report Prepared By: Gabriel Pina, Associate Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Accepting Project 5066, | ) | |
| Water Treatment Plant Filter Gallery | ) | |
| Valve Replacement Project as | ) | Resolution No. 21- |
| Complete and Authorizing the City | ) | |
| Engineer to File A Notice of Completion | ) | |

WHEREAS, the Water Treatment Plant determined a need to replace piping, valves, and actuators that serve the filters at the Water Treatment Plant; and

WHEREAS, Project 5066, Water Treatment Plant Filter Gallery Valve Replacement Project (the "Project"), included the installation of seven valves, 11 actuators, spot repairs and some associated electrical work in filter bays five through eight at the Water Treatment Plant; and

WHEREAS, on May 5, 2020, the City issued a task order to Brown and Caldwell in the amount of $86,400 to prepare plans, specifications, and estimate for the Project; and

WHEREAS, bids for construction of Project 5066 were opened on December 22, 2020, and Con-Quest Contractors, Inc. was the low bidder with a base bid in the amount of $224,000; and

WHEREAS, there was one contract change order for the Project in the amount of $3,277.89 for mounting the old solenoids on the new actuators for a total contract amount of $227,277.89; and

WHEREAS, the one year warranty for the Project began on June 7, 2021; and

WHEREAS, the total anticipated expenditures for the Project including design, construction, and staff costs are $322,151 and the remaining balance of $47,849 will return to the source for use on other projects; and

WHEREAS, staff requests that the City Council accept the Contract as complete and authorize the City Engineer to file a Notice of Completion for the Project.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby:

Section 1. Accepts the Project as complete.

Section 2. Authorizes and directs the City Engineer to execute a Notice of Completion and file said document with the Office of the Recorder of the County of Contra Costa, State of California, within 10 days from the date hereof.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST BY:

Alice E. Evenson, City Clerk

# Project Budget Summary

## Contract 2018-11, Water Treatment Plant Filter Gallery Valve Replacement Project

## Project 5066

| | | | |
|---|---|---|---|
| **Project Funding:** | Water Operations Fund (501) | | $370,000 |
| | | **Funding Total** | **$370,000** |
| **Project Expenditures:** | | | |
| Design: (Code 2122) | Consultant Design | | $86,160 |
| | | Subtotal | $86,160 |
| Miscellaneous: (Code 1399) | Advertising | | $600 |
| | Reproduction | | $0 |
| | Postage | | $0 |
| | | Subtotal | $600 |
| Construction: (Code 2281) | Base Bid | | $224,000 |
| | Construction Contingency | | $7,056 |
| | | Subtotal | $231,056 |
| Staff Time: (Code 1101) | Staff Costs During Design | | $1,000 |
| | Staff Costs During Construction Management | | $1,232 |
| | | Subtotal | $2,232 |
| Administrative Overhead: (Code 2372) | Staff Costs During Design | | $1,000 |
| | Staff Costs During Construction Management | | $1,103 |
| | | Subtotal | $2,103 |
| | | **Estimated Expenditures Total** | **$322,151** |
| | | Return to Source | $47,849 |

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution Authorizing an Application and Accepting a Grant from the State of California General Fund for Project 3333, California Theatre Marquee Project

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

State Senator Steve Glazer successfully advocated for the City's project to renovate the California Theatre, securing a commitment of $400,000 to update the marquee and make needed improvements below stage. If approved, the resolution will authorize staff to submit a grant application to the State Department of Natural Resources and allocate the funds to the project.

## FISCAL IMPACT

The City has been identified as the recipient of $400,000 from the State's General Fund, through a grant administered by the California Department of Natural Resources. If approved, the resolution will allocate grant funds to Project 3333, California Theatre Marquee Project. No matching funds are required.

## RECOMMENDATION

City Council adopt the Resolution authorizing an application to the California Department of Natural Resources for the California Theatre Project, allocating grant funds to the project, and designating the City Manager as the City's authorized representative for execution of all documents required to fulfill requirements of the grant.

## BACKGROUND

On August 4, 2021, State Senator Steve Glazer announced that $400,000 had been identified in the State's General Fund for the California Theatre. These funds will be administered in the form of a reimbursement grant according to guidelines established by the State Department of Natural Resources.

## SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

## STAFF ANALYSIS

The California Theatre is currently undergoing a renovation to add seats and access improvements to the balcony on the second floor.

Earlier this year, State Senator Steve Glazer obtained a commitment from the State of California for an additional $400,000 for improvements to the theater's marquee to make it easier to update, and for construction of restroom and other improvements below stage. This work is scheduled to be completed during the current renovation project.

If approved, the resolution authorizes staff to prepare an application to the California Department of Natural Resources for the California Theatre Project, agrees to the terms of the funding agreement, and designates the City Manager as the City's representative for purposes of grant administration.

The project to update the marquee and construct improvements below stage is scheduled to be completed by Spring 2023. Staff recommends approval of the attached resolution.

ATTACHMENTS: Resolution
Funding Agreement

Report Prepared By: Jill Hecht, Deputy City Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

A Resolution to Approve The Acceptance of)
General Fund Grant Funds for Project 3333, ) RESOLUTION NO. 21-
California Theatre Marquee Project )

WHEREAS, the Legislature and Governor of the State of California have approved a grant for the project shown above; and

WHEREAS, the California Natural Resources Agency has been delegated the responsibility for the administration of the grant project, setting up necessary procedures; and

WHEREAS, said procedures established by the California Natural Resources Agency require the Grantee to certify by resolution the approval of the Project Information Package before submission of said package to the State; and

WHEREAS, the Grantee will enter into an agreement with the State of California for subject project(s):

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg hereby finds and determines as follows:

Section 1.
Approves the acceptance of general fund allocation for local assistance for the above project; and

Section 2.
Certifies that said agency understands the assurances and certification in the Project Information Form; and

Section 3.
Certifies that said agency will have sufficient funds to develop, operate and maintain the project(s) consistent with the land tenure requirements, or will secure the resources to do so; and

Section 4. Certifies that said agency will comply with the provisions of Section 1771.5 of the California Labor Code; and

Section 5.
If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, the California Environmental Quality Act (CEQA), legal requirements for building codes, health and safety codes, disabled access laws, environmental laws, and that prior to commencement of construction, all applicable licenses and permits will have been obtained; and

Section 6.
Certifies that said agency has reviewed and understands the General Provisions contained in the Project Agreement shown in the Procedural Guide; and

Section 7.
Appoints the City Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to Project Information Form, agreements, payment requests, and so on, which may be necessary for the completion of the aforementioned project.

APPROVED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

**STATE OF CALIFORNIA NATURAL RESOURCES AGENCY**
**GRANT AGREEMENT**

**Grantee Name:** City of Pittsburg

**Project Title**: City of Pittsburg's California Theatre Marquee and Below Stage Modification Project

**Agreement Number:** GF2105-0

**Authority:** Budget Act of 2021 (Chapters 21, 69, and 240, Statutes of 2021)

**Program:** General Fund Specified Grant Projects

## PROJECT DESCRIPTION

Project Description – To be provided by CNRA Management

A detailed project scope and activities, project schedule and project budget are described and attached hereto as Exhibit A.

Grant Funds are to be used to support capital asset projects in accordance with the provisions contained in the Procedural Guide for General Fund Specified Grant Projects and this Agreement.

## TERMS AND CONDITIONS OF GRANT

### Special Provisions

1. As conditions precedent to the State's obligation to make any construction funding available pursuant to this Agreement, Grantee shall first provide evidence of compliance with CEQA by XX/XX/20XX.

2. As conditions precedent to the State's obligation to make any funding available pursuant to this Agreement, Grantee shall first provide evidence of adequate land tenure and evidence that the project will be operated and maintained for a minimum of __ years satisfactory to the State for all land to be improved under this Agreement.

### General Provisions

A. Definitions

1. The term "Act" means Budget Act of 2021 (Chapters 21, 69, and 240, Statutes of 2021).

2. The term "Acquisition" means obtaining a fee interest or any other interest, including easements, leases, and development rights.

3. The term "Agreement" means this Grant Agreement.

4. The term "Application" means the Project Information Package and any applicable materials supplied by grantee to the State pursuant to the Application Guidelines.

5. The term "Application Guidelines" means the Procedural Guide for General Fund Specified Development and Acquisition Grant Projects.

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6. The term “Development” means improvement, rehabilitation, restoration, enhancement, preservation, protection and interpretation or other similar activities.

7. The term “Fair Market Value” means the value placed upon the property as supported by an appraisal that has been reviewed and approved by the California Department of General Services (DGS).

8. The term “Grant” or “Grant Funds” means the money provided by the State to the Grantee in this Agreement.

9. The term “Grant Agreement” means a contractual arrangement between the State and Grantee specifying the payment of funds by the State for the performance of specific project objectives within a specific project performance period by the Grantee.

10. The term "Grantee" means an entity who has a signed agreement for grant funds.

11. The term “Interpretation” means visitor-serving amenities that communicate the significance and value of natural, historical, and cultural resources in a manner that increases the understanding and enjoyment of these resources, or other similar activities.

12. The term “Other Sources of Funds” means cash or in-kind contributions that are required or used to complete the project beyond the grant funds provided by this Agreement.

13. The term “Payment Request Form” means Form RA212.

14. The term "Project" means the acquisition or development activity described in the Application as modified by Exhibit A to be accomplished with grant funds.

15. The term “Project Budget” means the State approved cost estimate included as Exhibit A to this Agreement.

16. The term “Project Scope” means the description or activity for work to be accomplished by the project.

17. The term “Public Agency” means any State of California department or agency, a county, city, public district, or public agency formed under California law.

18. The term "State" means the Secretary for California Natural Resources or his/her representatives, or other political subdivision of the State.

B. Project Execution

1. Subject to the availability of funds in the Act, the State hereby grants to the Grantee a sum of money (Grant Funds) not to exceed the amount stated on the signature page in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the description of project in this Agreement and its attachments and under the Terms and Conditions set forth in this Agreement.

2. Grantee shall furnish any and all additional funds that may be necessary to complete the project.

3. Grantee shall complete the project in accordance with the Project Performance Period set forth on the signature page unless an extension has been formally granted by the State and under the Terms and Conditions of this Agreement. Extensions may be requested in advance and will be considered by the State, at its sole discretion, in the event of circumstances beyond the control of the Grantee, but in no event beyond **March 1, 2026.**

4. Grantee shall at all times ensure that project complies with the California Environmental Quality Act (CEQA) (Public Resources Code, Division 13, commencing with section 21000, et. seq., Cal Code

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Regs tit. 14, section 15000 et. seq.) and all other environmental laws, including but not limited to obtaining all necessary permits. Grant funds will not be disbursed before the close of the period for legal challenge under CEQA.

Grant funds for planning and document preparation may be available sooner if included in the grant project scope (Exhibit A) and approved by the State. CEQA compliance shall be completed within one (1) year from the Grant Agreement start date unless an extension is granted by the State.

Changes to the scope resulting from CEQA compliance are permitted provided the State determines that the project continues to meet all objectives of the General Fund Specified Grant Project and is consistent with the intent cited in the original Application.

If a grantee's project is disapproved on grounds related to the California Natural Resource Agency's CEQA determination, the grantee shall have the option of either: (1) reimbursing the Natural Resources Agency for all state-reimbursed preliminary costs (e.g., planning, design, etc.), or (2) relinquishing any planning/design documents, including all copies, reproductions, and variations resulting from said funding, without a license to use or otherwise retain in any form.

5. Projects must comply with any applicable laws pertaining to prevailing wage and labor compliance.

6. Grantee certifies that the project does and will continue to comply with all current laws and regulations which apply to the project, including, but not limited to, legal requirements for construction contracts, building codes, environmental laws, health and safety codes, and disabled access laws. Grantee certifies that prior to commencement of construction all applicable permits and licenses (e.g., state contractor's license) will have been obtained.

7. Grantee shall provide access by the State upon 24-hours' notice to determine if project work is in accordance with the approved project scope, including a final inspection upon project completion.

8. Prior to the commencement of any work, Grantee agrees to submit in writing to the State for prior approval any deviation from the original project scope per Exhibit A and the Application. Changes in project scope must continue to meet the need cited in the original Application or they will not be approved. Any modification or alteration in the project as set forth in the Application on file with the State must be submitted to the State for approval. Any modification or alteration in the project must also comply with all current laws and regulations, including, but not limited to, CEQA.

9. Grantee shall provide for public access and/or educational features where feasible.

10. Grantee must have (1) fee title, (2) leasehold, or (3) other interest in project lands and demonstrate to the satisfaction of the State the proposed project will provide public benefits that are commensurate with the type and duration of the interest in land.

11. Grantee shall promptly provide photographs of the site during and after implementation of the project at the request of the State.

C. Project Costs

1. Unless otherwise agreed upon, Grant Funds provided to Grantee under this Agreement will be disbursed for eligible costs, on a reimbursement basis, as follows, but shall not exceed in any event the amount set forth on the signature page of this Agreement:

   a. Grantee agrees to use any Grant Funds advanced by the State under the terms of this Agreement solely for the Project herein described.

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b. Approved direct management costs or construction and development costs. Up to ten percent (10%) of the reimbursement amount will be held back and issued as a final payment upon completion of the project.

c. Remaining Grant Funds shall be paid up to the total amount of the Grant Funds or the actual Project cost, whichever is less, upon completion of the Project, receipt of a detailed summary of Project costs from the Grantee found to be satisfactory by the State, and the satisfactory completion of a site inspection by the State.

2. Payment Documentation:

a. All payment requests must be submitted using a completed Payment Request Form. This form must be accompanied by an itemized list of all expenditures that clearly documents the check numbers, dates, recipients, line-item description as described in the project budget approved by the State and amounts. Each payment request must also include proof of payment such as receipts, paid invoices, canceled checks or other forms of documentation demonstrating payment has been made.

b. Any payment request that is submitted without the required itemization and documentation will not be authorized. If the payment request package is incomplete, inadequate, or inaccurate, the State will inform the Grantee and hold the payment request until all required information is received or corrected. Any penalties imposed on the Grantee by a contractor, or other consequence, because of delays in payment will be paid by the Grantee and is not reimbursable under this Agreement.

3. Grant funds in this award have a limited period in which they must be expended. Grantee expenditures funded by the State must occur within the time frame of the Project Performance Period as indicated in this Agreement.

4. The State reserves the right to request reimbursement of any funds spent on the project, even funds deemed eligible costs, if the project is not completed in accordance with the Grant Agreement and the guidelines.

5. Except as otherwise provided herein, the Grantee shall expend grant funds in the manner described in the Exhibit A approved by the State. The total dollars of a category in the project budget may be increased by up to ten percent (10%) through a reallocation of funds from another category, without approval by the State. However, the Grantee shall notify the State in writing when any such reallocation is made and shall identify both the item(s) being increased and those being decreased. Any cumulative increase or decrease of more than ten percent (10%) from the original budget in the amount of a category must be approved by the State. In any event, the total amount of the grant funds may not be increased, nor may any adjustments exceed the limits for management costs as described in the Application Guidelines.

D. Project Administration

1. Grantee shall promptly provide project reports and/or photographs upon request by the State. In any event Grantee shall provide the State a report showing total final project expenditures with the final payment request and required closing documents.

2. Grantee shall make property and facilities acquired or developed pursuant to this Agreement available for inspection upon request by the State.

3. If Grant Funds are advanced, the Grantee shall place these Funds in a separate interest-bearing account, setting up and identifying such account prior to the advance. Interest earned on Grant Funds shall be used on the Project, as approved by the State. Any overpayment of Grant Funds in excess of final project costs shall be returned to the State within sixty (60) days of completion of the Project or the end of the Project performance period as shown on the signature page, whichever is earlier.

4. Grantee shall submit all documentation for project completion, including a notice of completion as

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applicable and final reimbursement within ninety (90) days of project completion, but in no event any later than **March 1, 2026.**

5. Final payment is contingent upon State verification that the Project is consistent with the Project scope as described in Exhibit A, together with any State-approved amendments.

6. This Agreement may be amended by mutual agreement in writing between the Grantee and the State. The Grantee shall make requests in a timely manner and in no event less than sixty (60) days before the effective date of the proposed amendment.

E. Project Termination

1. The State reserves the right to terminate a Grant Agreement for any reason at any time. There are no vested rights or entitlements to funding that a Grantee can or should rely upon, and once a notice of termination is provided to the Grantee, only authorized and eligible work prior to that notification of termination will be paid by the State.

2. Prior to the completion of project construction, either party may terminate this Agreement by providing the other party with thirty (30) days' written notice of such termination. The State may also terminate this Grant Agreement for any reason at any time if it learns of or otherwise discovers that there is a violation of any state or federal law or policy by the Grantee which affects performance of this or any other grant agreement or contract entered into with the State.

3. If the State terminates without cause the Agreement prior to the end of the Project Performance Period, the Grantee shall take all reasonable measures to prevent further costs to the State under this Agreement. The State shall be responsible for any reasonable and non-cancelable obligations incurred by the Grantee in the performance of the Agreement prior to the date of the notice to terminate, but only up to the undisbursed balance of funding authorized in this Agreement.

4. If the Grantee fails to complete the project in accordance with this Agreement, or fails to fulfill any other obligations of this Agreement prior to the termination date, the Grantee shall be liable for immediate repayment to the State of all amounts disbursed by the State under this Agreement, plus accrued interest and any further costs related to the project. The State may, at its sole discretion, consider extenuating circumstances and not require repayment for work partially completed provided that the State determines it is in the State's best interest to do so. This paragraph shall not be deemed to limit any other remedies available to the State for breach of this Agreement.

5. Failure by the Grantee to comply with the terms of this Agreement or any other agreement under the Act may be cause for suspension of all obligations of the State hereunder.

6. Failure of the Grantee to comply with the terms of this Agreement shall not be cause for suspending all obligations of the State hereunder if, in the judgment of the State, such failure was due to no fault of the Grantee. At the discretion of the State, any amount required to settle at minimum cost any irrevocable obligations properly incurred shall be eligible for reimbursement under this Agreement.

7. Because the benefit to be derived by the State, from the full compliance by the Grantee with the terms of this Agreement, is the for the purposes as stated in the Application for the people of the State of California, and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State by way of grant funds under the provisions of this Agreement, the Grantee agrees that payment by the Grantee to the State of an amount equal to the amount of the grant funds disbursed under this Agreement by the State would be inadequate compensation to the State for any breach by the Grantee of this Agreement. The Grantee further agrees therefore, that the appropriate remedy in the event of a breach by the Grantee of this Agreement shall be the specific performance of this Agreement, unless otherwise agreed to by the State.

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F. Hold Harmless

1. Grantee shall waive all claims and recourses against the State, including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this Agreement, except claims arising from the gross negligence of State, its officers, agents and employees.

2. Grantee shall indemnify, hold harmless and defend State, its officers, agents and employees in perpetuity against any and all claims, demands, damages, costs, expenses or liability costs arising out of the project, including development, construction, operation or maintenance of the property described in the project description which claims, demands or causes of action arise under Government Code Section 895.2 or otherwise, including but not limited to items to which the Grantee has certified, except for liability arising out of the gross negligence of State, its officers, agents or employees. Grantee acknowledges that it is solely responsible for compliance with items to which it has certified.

3. Grantee and State agree that in the event of judgment entered against the State and the Grantee because of the gross negligence of the State and the Grantee, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.

G. Financial Records

1. Grantee shall maintain satisfactory financial accounts, documents, and records for the Project and to make them available to the State for auditing at reasonable times. Grantee shall also retain such financial accounts, documents, and records for three (3) years after final payment and one (1) year following an audit.

2. Grantee agrees that during regular office hours, the State and its duly authorized representatives shall have the right to inspect and make copies of any books, records or reports of the Grantee pertaining to this Agreement or matters related thereto. Grantee shall maintain and make available for inspection by the State accurate records of all of its costs, disbursements, and receipts with respect to its activities under this Agreement.

3. Grantee shall use applicable Generally Accepted Accounting Principles, unless otherwise agreed to by the State.

H. Use of Facilities

1. Grantee shall maintain, operate, and use the project in fulfillment of the purpose funded pursuant to this grant for a minimum of XXXXXXX (XX) YEARS, consistent with the Land Tenure/Site Control requirements included in the Application Guidelines. The Grantee, or the Grantee's successor in interest in the property, may assign without novation the responsibility to maintain and operate the property in accordance with this requirement only with the written approval of the State. Grantee may be excused from its obligations for operation and maintenance of the project site only upon the written approval of the State for good cause. "Good cause" includes, but is not limited to, natural disasters that destroy the project improvements and render the project obsolete or impracticable to rebuild.

2. Grantee shall use the property for the purposes for which the grant was made and shall make no other use or sale or other disposition of the property. This Agreement shall not prevent the transfer of the property from the Grantee to a Public Agency, if the successor public agency assumes the obligations imposed by this Agreement.

3. If the use of the property is changed to a use that is not permitted by the Agreement, or if the property is sold or otherwise disposed of, at the State's sole discretion, the Grantee shall reimburse the State the amount of the Grant.

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I. Nondiscrimination

1. During the performance of this grant, grantee and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any person because of sex, sexual orientation, race, color, religious creed, marital status, denial of family and medical care leave, ancestry, national origin, medical condition (cancer/genetic characteristics), age (40 and above), disability (mental and physical) including HIV and AIDS, denial of pregnancy disability leave or reasonable accommodation. Grantee and subcontractors shall ensure that the evaluation and treatment of all persons, and particularly their employees and applicants for employment are free from such discrimination and harassment. Grantee and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, §12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Code Regs, tit. 2, §7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12990 (a)–(f), are incorporated into this grant by reference and made a part hereof as if set forth in full (Cal. Code Regs, tit. 2, §7285.0 et seq.). Grantee shall include this non-discrimination and compliance provisions of this clause in all subcontracts to perform work under the grant.

2. The Grantee shall not discriminate against any person on the basis of residence except to the extent that reasonable difference in admission or other fees may be maintained on the basis of residence and pursuant to law.

3. The completed project and all related facilities shall be open to members of the public generally, except as noted under the special provisions of this Agreement or under provisions of the Act.

J. Application Incorporation

The Grant Guidelines and the Application and any subsequent changes or additions to the Application approved in writing by the State are hereby incorporated by reference into this Agreement as though set forth in full in this Agreement.

K. Severability

If any provision of this Agreement or the Application thereof is held invalid, that invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

L. Waiver

No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing and signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether expressed or implied, will constitute consent to, waiver of or excuse of any other, different, or subsequent breach by either party.

M. Assignment

Except as expressly provided otherwise, this Agreement is not assignable by the Grantee either in whole or in part.

N. Disputes

If the Grantee believes that there is a dispute or grievance between Grantee and the State arising out of or relating to this Agreement, the Grantee shall first discuss and attempt to resolve the issue informally with the Agency Grants Administrator. If the issue cannot be resolved at this level, the Grantee shall follow the following procedures:

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1. If the issue cannot be resolved informally with the Agency Grants Administrator, the Grantee shall submit, in writing, a grievance report together with any evidence to the Deputy Assistant Secretary for Bonds and Grants for the California Natural Resources Agency. The grievance report must state the issues in the dispute, the legal authority, or other basis for the Grantee's position and the remedy sought. Within ten (10) working days of receipt of the written grievance report from the Grantee, the Deputy Assistant Secretary shall make a determination on the issue(s) and shall respond in writing to the Grantee indicating the decision and reasons therefore. Should the Grantee disagree with the Deputy Assistant Secretary's decision, the Grantee may appeal to the Assistant Secretary for Administration and Finance for the Natural Resources Agency.

2. The Grantee must submit a letter of appeal to the Assistant Secretary explaining why the Deputy Assistant Secretary's decision is unacceptable. The letter must include, as an attachment, copies of the Grantee's original grievance report, evidence originally submitted, and response from the Deputy Assistant Secretary. The Grantee's letter of appeal must be submitted within ten (10) working days of the receipt of the Deputy Assistant Secretary's written decision. The Assistant Secretary or designee shall, within twenty (20) working days of receipt of Grantee's letter of appeal, review the issues raised and shall render a written decision to the Grantee. The decision of the Assistant Secretary or designee shall be final.

O. Audit Requirements

Grant projects are subject to audit by the State annually and for three (3) years following the final payment of grant funds. The audit shall include all books, papers, accounts, documents, or other records of the Grantee, as they relate to the project for which the grant funds were granted.

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**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution to Accept Project 4063, 2020/2021 CDBG ADA Curb Ramp Installation Project as Complete and Authorize the City Engineer to File a Notice of Completion

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

Project 4063, 2020/2021 CDBG ADA Curb Ramp Installation Project constructed 8 curb ramps in the Westwood Gardens neighborhood, 10 curb ramps in the High School Village area, 10 curb ramps in the Vista Del Rio area and 12 curb ramps in the Hillside neighborhood. This Resolution will accept the construction contract as complete and authorize the City Engineer to file a notice of completion.

## FISCAL IMPACT

Project 4063 was funded by a Community Development Block Grant (CDBG) in the amount of $232,508 and was completed within the approved budget. After payment of all expenditures for design, construction, release of retention, and project closeout, staff estimates a remaining balance of $5,195. A Project Budget Summary is attached to this report.

## RECOMMENDATION

City Council adopt the attached resolution accepting the Contract for Project 4063, 2020/2021 CDBG ADA Curb Ramp Installation Project as complete and authorizing the City Engineer to execute a Notice of Completion for the Project. Staff recommends all unspent funds be returned to the source.

## BACKGROUND

On April 20, 2020, the City Council adopted Resolution 20-13766 approving the Community Development Block Grant 2020-2021 Annual Action Plan and approving the CDBG subcommittee recommendation for funding the project in the amount of $232,508.

Advertising for the Project began on Wednesday, November 11, 2020. Bids for construction of the Project were opened on December 16, 2020.

On January 19, 2021, the City Council approved Resolution 21-13882 awarding a construction contract to M4 Concrete & Drywall, Inc., with a contract amount of $87,339.80.

## SUBCOMMITTEE FINDINGS

This item was not reviewed by a Subcommittee.

## STAFF ANALYSIS

The Project included three contract change orders in the amount of $98,335.84 for the installation of 22 additional curb ramps.

The total anticipated expenditures for the Project are $227,313. After all expenditures are paid for design, construction, the release of retention and project closeout, there will be $5,195 remaining balance.

The Contractor reached substantial completion on October 15, 2021. The one-year warranty period began on October 15, 2021.

The project was completed on time and within the budget approved by the City Council.

ATTACHMENTS: Resolution
Project Budget Summary

Report Prepared By: Andrew Peters, Assistant Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| A Resolution Accepting Project 4063, 2020/2021 CDBG ADA Curb Ramp Installation Project as Complete and Authorizing the City Engineer to File A Notice of Completion | ) | RESOLUTION NO. 21- |

WHEREAS, Project 4063, 2020/2021 CDBG ADA Curb Ramp Installation Project (the "Project') is for construction of 18 curb ramps in the High School Village and Westwood Gardens subdivisions; and

WHEREAS, on April 20, 2020, the City Council adopted Resolution 20-13766 approving the Community Development Block Grant 2020-2021 Annual Action Plan and approving the CDBG subcommittee recommendation for funding the project in the amount of $232,508; and

WHEREAS, bids for construction of the Project were opened on December 16, 2020 and M4 Concrete & Drywall, Inc. was the lowest bidder with a base bid in the amount of $87,339.80; and

WHEREAS, there were two contract change orders for the Project in the amount of $98,335.84 for the installation of 22 additional curb ramps; and

WHEREAS, the total contract amount, including two contract change orders is $185,675.64; and

WHEREAS, the Contractor reached substantial completion on October 15, 2021. The one-year warranty period began on October 15, 2021; and

WHEREAS, the total anticipated expenditures for the Project including design, construction, and staff costs are $227,313 and there will be $5,195 remaining balance; and

WHEREAS, staff requests that the City Council accept the Contract as complete and authorize the City Engineer to execute a Notice of Completion for the Project.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby finds and determines as follows:

Section 1.
The Project is hereby accepted as complete.

Section 2.
The City Engineer is hereby authorized and directed to execute a Notice of Completion.

Section 3.
The City Engineer is directed to file said document with the Office of the Recorder of the County of Contra Costa, State of California, within ten (10) days from the date hereof.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST BY:

_____
Alice E. Evenson, City Clerk

# Project Budget Summary

## Contract 2020-01, 2020/2021 CDBG ADA Curb Ramp Installation Project

Project 4063

| | | | |
|---|---|---|---|
| **Project Funding:** | 2020/2021 CDBG Grant | | $232,508 |
| | | **Funding Total** | **$232,508** |
| **Project Expenditures:** | | | |
| Design: (Code 2122) | Consultant Design | | $0 |
| | | Subtotal | $0 |
| Miscellaneous: (Code 1399) | Advertising | | $637.20 |
| | Reproduction | | $0 |
| | Postage | | $0 |
| | | Subtotal | $637 |
| Construction: (Code 2281) | Base Bid | | $87,339.80 |
| | CCO 1 | | $29,560.84 |
| | CCO 2 | | $68,775.00 |
| | | Subtotal | $185,675.64 |
| Staff Time: (Code 1101) | Staff Costs During Design | | $8,000 |
| | Staff Costs During Construction Management | | $33,000 |
| | | Subtotal | $41,000.00 |
| Administrative Overhead: (Code 2372) | Staff Costs During Design | | $0 |
| | Staff Costs During Construction Management | | $0 |
| | | Subtotal | $0 |
| | | **Expenditures Total** | **$227,313** |
| | | **Return to Source After Completion** | **$5,195** |

# Project Budget Summary

## Contract 2020-01, 2020/2021 CDBG ADA Curb Ramp Installation Project

Project 4063

| | | | |
|---|---|---|---|
| **Project Funding:** | 2020/2021 CDBG Grant | | $232,508 |
| | | **Funding Total** | **$232,508** |

**Project Expenditures:**

| | | | |
|---|---|---|---|
| Design: (Code 2122) | Consultant Design | | $0 |
| | | Subtotal | $0 |
| Miscellaneous: (Code 1399) | Advertising | | $637.20 |
| | Reproduction | | $0 |
| | Postage | | $0 |
| | | Subtotal | $637 |
| Construction: (Code 2281) | Base Bid | | $87,339.80 |
| | CCO 1 | | $29,560.84 |
| | CCO 2 | | $68,775.00 |
| | | Subtotal | $185,675.64 |
| Staff Time: (Code 1101) | Staff Costs During Design | | $8,000 |
| | Staff Costs During Construction Management | | $33,000 |
| | | Subtotal | $41,000.00 |
| Administrative Overhead: (Code 2372) | Staff Costs During Design | | $0 |
| | Staff Costs During Construction Management | | $0 |
| | | Subtotal | $0 |
| | | **Expenditures Total** | **$227,313** |

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of City Council Resolution Authorizing City Manager to Execute Purchase Contract of New Fleet Vehicles

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

The City maintains a fleet of vehicles and equipment necessary for City operations and for maintenance of the City's infrastructure. The City solicited bids from multiple vendors for replacement of vehicles that have lower reliability and are requiring more maintenance. If approved, the resolution authorizes the purchase of 17 new vehicles from All Star Ford of Pittsburg.

## FISCAL IMPACT

Funding for the vehicles, totaling $768,282.76 will come from the Public Works Department's Fleet budget (Fund 611-43201) previously approved by the City Council for Fiscal Year 2021-22. No new funds are requested.

## RECOMMENDATION

City Council adopt the attached resolution to authorize the City Manager to execute the purchase of three 2022 Ford F150 Regular Cab XL trucks, five 2022 Ford F250 Regular Cab Service Body trucks, five 2022 Ford Police Interceptor SUV's, three 2022 Ford Escape Hybrid plug-in vehicles, and one 2022 Ford Mustang Mach-E electric vehicle totaling $768,282.76 from All Star Ford.

## BACKGROUND

The Public Works Department Fleet Maintenance Division is responsible for the maintenance of a vehicle fleet of more than 200 predominantly gas-powered cars, trucks, heavy equipment and other equipment. The fleet includes police patrol cars, sedans, motorcycles, heavy-duty trucks and construction equipment, as well as light- and medium-duty trucks, vans, sport utility vehicles, and other pieces of equipment such as compressors and mowers. The entire fleet has a replacement value of approximately $6 million.

Staff identified specific vehicles and equipment designated for purchase during Fiscal Year 2021/22 based on highest priority for City operations, immediate need, and length of time required for delivery. If approved, the 17 vehicles will replace those in lesser condition in the City's fleet, and with the inclusion of several hybrid and electric vehicles, will begin to move the City away from a reliance on exclusively fossil fueled-vehicles.

## SUBCOMMITTEE FINDINGS

This item was presented to the Finance Subcommittee on December 17, 2021.

## STAFF ANALYSIS

Staff sent requests for bids to six companies that provide these vehicle types. All Star Ford of Pittsburg was the only responsive bidder. Summaries of the bids received and specifications are attached to this report.

Funds sufficient to finance this purchase are available in the Public Works Fleet budget previously approved by the City Council for Fiscal Year 2021-22. Delivery of the vehicles is anticipated approximately six to nine months after authorization of purchase, but may take longer due to shipping delays as caused by the pandemic.

Staff recommends the City Council approve the attached resolution and authorize the City Manager to execute a purchase contract with All Star Ford in the amount of $768,282.76 for 17 new 2022 Ford vehicles.

ATTACHMENTS: Resolution
Bid Summary Sheets and Specifications

Report Prepared By: Natasha Farmer, Public Works Administrative Analyst I

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter Of:

| | | |
|---|---|---|
| Authorizing City Manager to Authorize Execution of Contract to Purchase New Fleet Vehicles | ) ) ) | RESOLUTION NO. 21 - _____ |

WHEREAS, the City's Public Works Department is responsible for the care and maintenance of the City's fleet of vehicles and equipment; and,

WHEREAS, from time to time vehicles and equipment become old or worn to the point where they are no longer able to provide optimum service to the City or are too costly to maintain; and,

WHEREAS, these vehicles and equipment must routinely be replaced to provide City staff with adequate equipment to provide the best and most cost-effective services to the public; and

WHEREAS, on October 21, 2021, the City solicited bids from six equipment and vehicle vendors in the area; and,

WHEREAS, the City received one response to its solicitation, which was a cost proposal from All Star Ford of Pittsburg, for the purchase of three 2022 Ford F150 Regular Cab XL trucks, five 2022 Ford F250 Regular Cab Service Body trucks, five 2022 Ford Police Interceptor SUV's, three 2022 Ford Escape Hybrid plug-in vehicles, and one 2022 Ford Mustang Mach-E electric vehicle; and,

WHEREAS, staff recommends approval of a purchase contract for 17 vehicles consistent with the specifications and amount of the bid from All Star Ford; and,

WHEREAS, sufficient funds for this the purchase are available in the previously approved Fleet Budget for Fiscal Year 2021/22.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby approves and authorizes the City Manager to authorize the execution of a contract with All Star Ford in the amount of $768,282.76 to purchase 17 new 2022 Ford vehicles.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

**Bid Tabulation**
**Ford Vehicles**
**RFQ# FV-110421**
**November 4, 2021**

| Vendor | 2002 Ford F150 Reg Cab 4x2 XL (3) | 2022 Ford Police Interceptor Utility-Admin (2) | 2022 Ford Police Interceptor Utility-Patrol (2) | 2022 Ford Police Interceptor Utility (1) | 2022 Ford Escape Phev (Plug-in Hybrid) FWD (3) | 2022 Ford Mustang Mach-E Select eAWD (1) | 2022 Ford F250 Reg Cab 4x2 XL Scelzi Service Body (5) | Bid Total |
|---|---|---|---|---|---|---|---|---|
| **All Star Ford** | $ 106,774.44 | $ 94,116.82 | $ 106,822.60 | $ 52,974.30 | $ 109,666.50 | $ 55,267.40 | $ 242,660.70 | **$ 768,282.76** |
| Bill Brandt Form | | | | | | | | No response |
| Downtown Ford | | | | | | | | No response |
| Dupratt Ford | | | | | | | | No response |
| Serramonte Ford | | | | | | | | No response |
| Walnut Creek Ford | | | | | | | | No response |

**TWO (2) – 2022 FORD POLICE INTERCEPTOR UTILITY-PATROL**

# BID WORKSHEET

**RFQ# FV-110421**

The Undersigned, as bidder, declares that the only person or parties interested in this RFQ as principals are those named herein; that this bid is made without collusion with any other person, firm, or corporation; that bidder and/or agent has carefully examined the location of the proposed work above described, that bidder and/or agent has examined the plans, terms and conditions and specifications therefore, and is familiar with all requirements, that bidder and/or agent has examined this Form and the provisions incorporated by reference herein; and bidder and/or agent hereby proposes, and agrees to the Contract apparatus, and other means of construction, and to do all the work and furnish all the materials in accordance with the scope of work in the time stated herein, for the unit price and/or lump sum price as follows:

**BASE PRICE:** 48796.05

**SALES TAX: (9.25%)** 4521.50 **(ADD TO BASE PRICE ONLY)**

**SUB-TOTAL:** 53,317.55

**DISCOUNTS:** _____

**DOC FEES:** 85.00

**TIRE FEES:** 8.75

**DELIVERY:** _____

**PRICE:** 53,411.30 **EA**

**TOTAL COST: (2)**

One hundred six thousand Eight hundred twenty two dollars 60/100 — **(Written out in numeral amount)**

$106,822.60 — **(Numeral Amount)**

**# OF DAYS FOR DELIVERY, AFTER RECEIPT OF P.O.** _____

Vendor: All Star Ford

Address: 3800 Century Way City/State: Pittsburg, CA Zip: 94565

Contact Name: Lewis Kandel

Signature: Lewis Kandel Title: Fleet Manager

Telephone: (925) 752-7830 Fax: (925) 752-7872

Email: lKandel@AllStarFord.net

**NOTE: This Bid Worksheet must be completed and returned with all applicable attachments to the City. Any bid submitted, absent this worksheet will not be considered.**

## TWO (2) 2022 POLICE INTERCEPTOR UTILITY –PATROL VEHICLES

The City of Pittsburg and Pittsburg Police Department are looking to purchase TWO (2) new 2022 Police Interceptor Utility vehicles for Patrol use.

Police Interceptor Utility AWD – **K8A**

ENGINE----- -- 3.3L V6 Direct-Injection Hybrid Engine – **99W/44B**

AWD

Series – **500A**

TRANSMISSION --10 speed automatic, exclusively police calibrated for maximum acceleration and faster closing speeds.

COLOR -- (2 units) Agate Black – **UM**
With 2 front doors White below window line (painted)

96 Int. Cloth front Vinyl back

MEET ALL CALIFORNIA AND FEDERAL EMISSION STANDARDS

WARRANTY

- 3 --- Year / 36,000 Miles Bumper / Bumper

POWERTRAIN CARE EXTENDED SERVICE PLAN

- 8 --- YEAR / 150,000-miles (zero deductible)

(4) Sets of Keys/Fobs

All other items considered Standard

To include All options highlighted on pages 4 through 7

# POLICE INTERCEPTOR
# MAJOR PRODUCT CHANGES

To learn more about the features on this vehicle, go to www.fordesourcebook.com

**MECHANICAL**
- ★ *New/Changed*
  - — N/A

**EXTERIOR**
- ★ *New/Changed*
  - — N/A
- ★ *New Colors*
  - — N/A
- ★ *Deleted Paint Colors*
  - — N/A

**INTERIOR/COMFORT**
- ★Heated Sanitization Solution

**FUNCTIONAL**
- N/A

**SAFETY/SECURITY**
- N/A

**DRIVER ASSIST TECHNOLOGY**
- ★Police Perimeter Alert (68B)
- Now enables rear view camera image display in the rear view mirror option.(87R)

**PACKAGES**
- N/A

**Product Changes and Features Availability**

Features, options and package content subject to change. Please check www.fmcdealer.com for the most current information.

★ = New for this model year

# POLICE INTERCEPTOR MAJOR PRODUCT CHANGES

**Unique Police Interceptor Utility Features Include:**

## MODEL/SERIES/AVAILABILITY

- 3 Available Models
  - — 3.3L V6 Direct-Injection Hybrid Engine System (AWD)
  - — 3.3L V6 Direct-Injection FFV AWD
  - — 3.0L V6 EcoBoost® AWD
- 1 Available Series
  - — 500A

## MECHANICAL

- 3.3L Police-Calibrated V6 Direct-Injection Hybrid Engine System – Standard (Hybrid technology is optimal for performance and long days spent idling on the job)
- AWD Drivetrain – Standard for enhanced handling precision and unsurpassed traction on wet or dry surfaces
- Transmission – 10-speed automatic, police calibrated for maximum acceleration and faster closing speeds
- Lithium-Ion Battery Pack
- Brakes – Police calibrated high-performance regenerative braking system
- 4-Wheel heavy-duty disc w/heavy-duty front and rear calipers
- Brake Rotors – large mass for high thermal capacity and calipers with large swept area.
- Electric Power-Assist Steering (EPAS) – Heavy-Duty
- DC/DC converter – 220-Amp (in lieu of alternator)
- H7 AGM Battery (Standard; 800 CCA/80-amp)
- H8 AGM Battery (Available; 850 CCA/92-amp)
- Cooling System – Heavy-duty, large high volume radiator, Engine oil cooler and transmission oil cooler
- Engine Idle Hour Meter
- Engine Hour Meter
- Powertrain mounts – Heavy-Duty
- Class III Trailer Hitch Receiver with 5,000 lbs. towing capacity and (2) recovery hooks
  **Note:** Includes Class III Trailer Tow Lighting Package
- Wheels
  - — Heavy-duty steel, vented with center cap
  - — Full size spare tire w/TPMS
- 50-State Emissions System

## INTERIOR FEATURES

- Cargo Area – Spacious area for police equipment; Lithium-Ion Battery Pack does not intrude into the cargo area
- Column Shifter
- Seats
  - — Front – Police grade cloth – 6-way power-adjustable Manual lumbar, seatback foam designed to comfortably accommodate a utility belt
  - — Built-in steel intrusion plates in both front-seatbacks
  - — 2nd Row – Police grade vinyl, offers easy care for cleaning
- Flooring – Heavy-Duty vinyl; offers ease of cleaning and long-term durability
- Speedometer – Certified, digital readout in message center and analog guage
- Universal equipment tray atop instrument panel (ideal for radar and other police equipment)

## POLICE UPFIT FRIENDLY

- Consistent 11-inch space between driver and passenger seats for aftermarket consoles (9-inch center console mounting plate)
- Console mounting plate
- Dash pass-thru opening for aftermarket wiring
- Headliner – Easy to service
- Integrated LED police flashers (available)
- Rear-center seat delete (available)
- Taillamps – Integrated police flashers (available)
- Two (2) 50 amp battery ground circuits – power distribution junction block (repositioned behind 2nd row seat floorboard).

## TECHNOLOGY

- 12.1" Integrated Computer Screen (Available; includes 12.1" touchscreen display in center stack and allows for operation of laptop in remote location to free up cabin space in front passenger area
- Ford Telematics™ – Includes Fleet Telematics Modem and complimentary 2-year subscription
- Police Perimeter Alert (available; detects and analyzes motion in an approximately 270-degree radius on sides and back of vehicle)
- Rear Camera On-Demand (available)
- Front Interior Visor Light Bar (LED) Super low-profile warning LED light bar fully integrated into the top of the windshield near the headliner – fully programmable (available; Red/Blue/White LED lights)
- Rear Auxiliary Liftgate Lights (available; Red/Blue LED Lights; located beneath liftgate glass in applique panel)
- Rear Spoiler Traffic Warning Lights (LED) – Fully integrated in rear spoiler for enhanced visibility; Provides red/blue/amber directional lighting – fully programmable (available)
- Pre-Collision Assist with Pedestrian Detection (available; includes Forward Collision Warning and Automatic Emergency Braking and unique disable switch for Law Enforcement use)
- BLIS® – Blind Spot Monitoring with Cross-traffic Alert (available)
- Bluetooth ® Interface – Includes hands-free voice command support (compatible with most Bluetooth connected mobile devices)
- Unique Steering Wheel (with 4-remappable latching switches)

## SAFETY/SECURITY HIGHLIGHTS

- 75-mph Rear-impact Crash Tested
  **Note:** The full-size spare tire secured in the factory location is necessary to achieve police-rated 75-mph rear impact crash-test performance attributes
- AdvanceTrac® w/RSC® (Roll Stability Control®) police tuned gyroscopic sensors work seamlessly with the ABS
- Ballistic Door-Panels (National Institute of Justice (NIJ) certified to stop Type III, IV, all lesser NIJ rounds, as well as additional special threat rounds) (available)
- Exterior Key Locks – Driver, passenger and liftgate
- Simple Fleet Key (w/o microchip, easy to replace, 4-keys)
- Police Engine Idle feature (available)
- Rear Video Camera with Washer (standard)
- Reverse Sensing (available)

## GENERAL

- Underbody deflector plate no longer standard on EcoBoost® models (order 76D)
- Front Headlamp Lighting Solution now includes Red/Blue/White LED Strobes

## WARRANTY

- 3 Year / 36,000 Miles Bumper / Bumper
- 8 Year / 100,000 Miles Hybrid Unique Components

## POWERTRAIN CARE EXTENDED SERVICE PLAN

- 5-year/100,000-mile Powertrain CARE Extended Service Plan (zero deductible) – Standard

**Product Changes and Features Availability**

Features, options and package content subject to change. Please check www.fmcdealer.com for the most current information.

★ = New for this model year

# STANDARD EQUIPMENT

The following items are std. 2022MY POLICE INTERCEPTOR UTILITY vehicle:

**MECHANICAL**

- Axle Ratio – 3.73 (AWD)
- Brakes – 4-Wheel Heavy-Duty Disc w/H.D. Front and Rear Calipers
- Class III Trailer Hitch Receiver with 5,000 lbs. towing capacity and (2) recovery hooks
  Note: Includes Class III Trailer Tow Lighting Package
- Column Shifter
- DC/DC converter – 220-Amp (in lieu of alternator)
- Drivetrain – All-Wheel-Drive
- Electric Power-Assist Steering (EPAS) – Heavy-Duty
- Engine – 3.3L V6 Direct-Injection Hybrid Engine System
- Engine Hour Idle Meter
- Engine Hour Meter
- Engine Oil Cooler
- Fuel Tank – 19-gallons
- H7 AGM Battery (800 CCA/80-amp)
- Lithium-Ion Battery Pack
- Suspension – independent front & rear
- Transmission – 10-speed automatic
- Transmission Oil Cooler

**EXTERIOR**

- Antenna, Roof-mounted
- Cladding – Lower bodyside cladding (MIC)
- Door Handles – Black (MIC)
- Exhaust, True Dual (down-turned)
- Daytime Running Lamps – Configurable ON/OFF through instrument cluster
  Note: Select option (942) if desire is to have Daytime Running Lamps permanently on (cannot be turned off or reprogrammed)
- Door-Lock Cylinders (Front Driver / Passenger / Liftgate)
- Glass – 2nd Row, Rear Quarter and Liftgate Privacy Glass
- Grille – Black (MIC)
- Headlamps – Automatic, LED Low-and-High-Beam
  Note: Includes Front Headlamp / Police Interceptor Housing (with LED wig-wag feature)
  - Pre-drilled hole for side marker police use, does not include LED strobe, but includes LED wig-wag functionality (eliminates need to drill housing assemblies and provides LED wig-wag feature)
  - Pre-molded side warning LED holes with standard sealed capability (does not include LED installed lights)
  - Wig-wag default is traditional ping-pong pattern; can be programmed to triple-burst pattern or ping-pong / triple-burst
    Note: Must be wired to vehicle's light controller to enable wig-wag functionality; recommend Ready for the Road Package (67H) or Ultimate Wiring Package (67U)
- Liftgate – Manual 1-Piece – Fixed Glass w/Door-Lock Cylinder
- Mirrors – Black Caps (MIC), Power Electric Remote, Manual Folding with Integrated Spotter (integrated blind spot mirrors not included when equipped with BLIS®)
- Spare – Full size 18" Tire w/TPMS
- Spoiler – Painted Black
- Liftgate Handle – (MIC)
- Tail lamps – LED
- Tires – 255/60R18 A/S BSW
- Wheel-Lip Molding – Black (MIC)
- Wheels – 18" x 8.0 painted black steel with polished stainless steel hub cover
- Windshield – Acoustic Laminated

**INTERIOR/COMFORT**

- Cargo Hooks in cargo area
- Climate Control – Dual-Zone Electronic Automatic Temperature Control (DEATC)
- Door-Locks
  - Power
  - Rear-Door Handles and Locks Operable
- Fixed Pedals (Driver Dead Pedal)
- Floor – Flooring – Heavy-Duty Thermoplastic Elastomer
- Glove Box – Locking/non-illuminated
- Grab Handles – (1 – Front-passenger side, 2-Rear)
- ★Heated Sanitization Solution
- Liftgate Release Switch located in overhead console (45 second timeout feature)
- Lighting
  - Overhead Console
  - Red/White Task Lighting in Overhead Console
  - 3rd row overhead map light
- Mirror – Day/night Rear View
- Particulate Air Filter
- Powerpoints – (1) First Row
- Rear-door closeout panels

**INTERIOR/COMFORT (continued)**

- Rear-window Defrost
- Scuff Plates – Front & Rear
- Seats
  - 1st Row Police Grade Cloth Trim, Dual Front Buckets with reduced bolsters
  - 1st Row – Driver 6-way Power track (fore/aft. Up/down, tilt with manual recline, 2-way manual lumbar)
  - 1st Row – Passenger 2-way manual track (fore/aft. with manual recline)
  - Built-in steel intrusion plates in both driver/passenger seatbacks
  - 2nd Row Vinyl, 35/30/35 Split Bench Seat (manual fold-flat, no tumble) – fixed seat track
- Speed (Cruise) Control
- Speedometer – Calibrated (includes digital readout)
- Steering Wheel – Manual / Tilt / Telescoping, Urethane wheel finish w/Silver Painted Bezels with Speed Controls and 4 user – configurable latching switches
- Sun visors, color-keyed, non-illuminated
- Universal Top Tray – Center of I/P for mounting aftermarket equipment
- Windows, Power, 1-touch Up/Down Front Driver/Passenger-Side with disable feature

**SAFETY/SECURITY**

- AdvanceTrac® w/RSC® (Roll Stability Control®)
- Airbags, dual-stage driver & front-passenger, side seat, passenger-side knee, Roll Curtain Airbags and Safety Canopy®
- Anti-Lock Brakes (ABS) with Traction Control
- Brakes – Police calibrated high-performance regenerative braking system
- Belt-Minder® (Front Driver / Passenger)
- Child-Safety Locks (capped; set to "on")
- Individual Tire Pressure Monitoring System (TPMS)
- LATCH (Lower Anchors and Tethers for Children) system on rear outboard seat locations
- Rearview Camera with Washer viewable in 4.2" center stack.
  Note: Rearview Camera viewable in rearview mirror (available) – order 87R (no-charge option)
- Seat Belts, Pretensioner/Energy-Management System w/adjustable height in 1st Row
- SOS Post-Crash Alert System™

**FUNCTIONAL**

- Audio
  - AM/FM / MP3 Capable / Clock / 4-speakers
  - Bluetooth® interface — Includes hands-free voice command support (compatible with most Bluetooth connected mobile devices)
  - USB Port — (1)
  - 4.2" Color LCD Screen Center-Stack "Smart Display"
- Easy Fuel® Capless Fuel-Filler
- Ford Telematics™ – Includes Fleet Telematics Modem and complimentary 2-year subscription
- Front door tether straps (driver/passenger)
- Power pigtail harness
- Simple Fleet Key (w/o microchip, easy to replace; 4-keys)
- Two-way radio pre-wire
- Two (2) 50 amp battery power circuits – power distribution junction block (behind 2nd row passenger seat floorboard)
- Wipers – Front Speed-Sensitive Intermittent; Rear Dual Speed Wiper

★ = New for this model year

# EQUIPMENT GROUP

| Series | Option Code | Police Interceptor 500A |
|---|---|---|
| Police Interceptor Utility AWD | K8A | S |
| AWD 3.3L V6 Direct-Injection Hybrid Engine System with 10-Speed Automatic Transmission (136-MPH Top Speed) | 99W/44B | S |
| **EQUIPMENT GROUP** | | |
| **Front Headlamp Lighting Solution**<br>• Includes LED Low beam/High beam headlamp, Wig-wag function and (2) Red/Blue/White LED side warning lights in each headlamp (factory configured: driver's side White/Red / passenger side White/Blue)<br>• Includes pre-wire for grille LED lights, siren and speaker (60A)<br>• Wiring, LED lights included (in headlamps only; grille lights not included). Controller "not" included<br>**Note:** Not available with option: 67H<br>**Note:** Recommend using Ultimate Wiring Package (67U) | 66A | O |
| **Rear Lighting Solution**<br>• Includes two (2) backlit flashing linear high-intensity LED lights (driver's side red / passenger side blue) mounted to inside liftgate glass<br>• Includes two (2) backlit flashing linear high-intensity LED lights (driver's side red / Passenger side blue) installed on inside lip of liftgate (lights activate when liftgate is open)<br>• LED lights only. Wiring, controller "not" included<br>**Note:** Not available with option: 67H<br>**Note:** LED lights only – does "not" include wiring or controller<br>**Note:** Recommend using Ultimate Wiring Package (67U) | 66C | O |

★ = New for this model year

P = Included in Equipment Group, S = Standard Equipment, O = Optional

# EQUIPMENT GROUP

| KEY EXTERIOR OPTIONS | | |
|---|---|---|
| **Lamps / Lighting** | | |
| Dark Car Feature – Courtesy lamps disabled when any door is opened | 43D | O |
| **Spot Lamp – LED Bulb:** | | |
| Dual (driver and passenger) (Whelen) | 51V | O |
| **Body** | | |
| Underbody Deflector Plate (engine and transmission shield) | 76D | O |

★ = New for this model year

P = Included in Equipment Group, S = Standard Equipment, O = Optional

# EQUIPMENT GROUP

| EQUIPMENT GROUP | | |
|---|---|---|
| **Audio / Video** | | |
| Rear View Camera displayed in rear view mirror (Includes Electrochromic Rear View Mirror)<br>**Note:** Not recommended with option 47E 12.1" Integrated Computer Screen<br>**Note:** This option replaces the standard display in the center stack area.<br>**Note:** Camera can only be displayed in the center stack (std) "OR" the rear view mirror (87R) | 87R | O |
| **Doors / Locks** | | |
| Global Lock / Unlock feature (Door-panel switches will lock/unlock all doors and rear liftgate. Eliminates overhead console liftgate unlock switch and 45-second timer. Also eliminates the blue liftgate release button if ordered with Remote Keyless Entry) | 18D | O |
| Remote Keyless-Entry Key Fob (w/o Keypad, less PATS) – (includes 4-key fobs)<br>**Note:** Available with Keyed Alike, however, key fobs are "not" fobbed alike when ordered with Keyed Alike | 55F | O |
| **Safety & Security** | | |
| Ballistic Door-Panels (Level IV+) – Driver & Pass Front-Doors[2] | 90G | O |
| BLIS® – Blind Spot Monitoring with Cross-traffic Alert<br>**Note:** Includes manual fold-away mirrors, w/heat, w/o memory, w/o puddle lamps | 55B | O |
| Police Perimeter Alert – detects motion in an approximately 270-degree radius on sides and back of vehicle; if movement is determined to be a threat, chime will sound at level I. Doors will lock and windows will automatically go up at level II. Includes visual display in instrument cluster with tracking.<br>**Note:** ★Now enables rearview camera image display in the rear view mirror option (87R) | 68B | O |

[1] Tested and meets the requirements of NIJ Standard 0108.01 Level III:
- 7.62 x 51 mm 9.7g M80 (.308 Winchester 150gr)

Per LAPD requirements, they're also designed to withstand special threat rounds:
- 7.62 x 39 mm MSC 7.9g (Type 56)
- 5.56 x 45 mm M193 3.36g
- 5.56 x 45mm M855 4g

[2] Tested and meets the requirements of NIJ Standard 0108.01 Level IV:
- .30-06 M2 AP 166gr (7.62 x 63 APM2 10.8g)

Also designed to withstand special threat rounds:
- 7.62 x 54R LPS 9.65g
- 7.62 x 51 mm M61 9.75g (.308 Winchester 150.5gr)

In addition, Level IV+ includes all of the NIJ Level III and LAPD rounds listed in footnote 1.

★ = New for this model year

P = Included in Equipment Group, S = Standard Equipment, O = Optional

# EQUIPMENT GROUP

| EQUIPMENT GROUP | | |
|---|---|---|
| **Safety & Security (continued)** | | |
| Reverse Sensing System | 76R | O |
| **Misc** | | |
| Rear Auxiliary Air Conditioning<br>**Note:** Now available with Cargo Storage Vault (63V). | 17A | O |

★ = New for this model year

P = Included in Equipment Group, S = Standard Equipment, O = Optional

CNGP530 VEHICLE ORDER CONFIRMATION 10/28/21 13:47:09
==> _____ _____ Dealer: F72428
2022 EXPLORER 4-DOOR Page: 1 of 2
Order No: P005 Priority: A4 Ord FIN: QA464 Order Type: 5B Price Level: 215
Ord Code: 500A Cust/Flt Name: CITY OF PITTS PO Number:

| | | RETAIL | DLR INV | | | RETAIL | DLR INV |
|---|---|---|---|---|---|---|---|
| K8A | 4DR AWD POLICE | $40980 | $39751.00 | 51V | SPTLMP LED DUAL | $665 | $625.00 |
| | .119" WHEELBASE | | | 55B | BLIND SPOT INFO | 545 | 512.00 |
| UM | AGATE BLACK | | | 55F | KEYLESS - 4 FOB | 340 | 320.00 |
| 9 | CLTH BKTS/VNL R | | | 56M | FLEET INCENTIVE | NC | (1500.00) |
| 6 | EBONY | | | 66A | FRONT HDLMP PKG | 895 | 841.00 |
| 500A | EQUIP GRP | | | | .GRILL WIRING | | |
| | .AM/FM STEREO | | | 66C | REAR LIGHT PKG | 455 | 428.00 |
| 99W | .3.3L HYBRID | NC | NC | 68B | PERIMETER ALERT | 675 | 635.00 |
| 44B | .10-SP MOD HYBRD | NC | NC | | | | |
| | CA BOARD FEES | NC | .65 | TOTAL | BASE AND OPTIONS | 51875 | 47896.05 |
| | FLEET ADV CRED | NC | (680.00) | TOTAL | | 51875 | 47896.05 |
| 17A | AUX CLIMATE CTL | 610 | 573.00 | *THIS IS NOT AN INVOICE* | | | |
| 18D | GBL LOCK/UNLOCK | NC | NC | | | | |
| 425 | 50 STATE EMISS | NC | NC | * MORE ORDER INFO NEXT PAGE * | | | |
| 43D | COURTESY DISABL | 25 | 24.00 | F8=Next | | | |

F1=Help F2=Return to Order F3/F12=Veh Ord Menu
F4=Submit F5=Add to Library
S006 - MORE DATA IS AVAILABLE. QC06138

+ 900

47896.05

```
CNGP530                    VEHICLE ORDER CONFIRMATION          10/28/21 13:47:26
==> _________ ____________________________________________        Dealer: F72428
                              2022 EXPLORER 4-DOOR                 Page: 2 of 2
 Order No: P005    Priority: A4  Ord FIN: QA464  Order Type: 5B Price Level: 215
 Ord Code: 500A Cust/Flt Name: CITY OF PITTS       PO Number:
                         RETAIL   DLR INV                          RETAIL   DLR INV
 76D  DEFLECTOR PLATE    $335    $315.00
 76R  REVERSE SENSING     275     259.00
 87R  RR VIEW MIR/CAM      NC         NC
 90G  LH/RH PANEL IV     4830    4541.00
 153  FRT LICENSE BKT      NC         NC
      FUEL CHARGE                   6.40
      DEST AND DELIV     1245    1245.00

TOTAL BASE AND OPTIONS 51875   47896.05
TOTAL                  51875   47896.05
*THIS IS NOT AN INVOICE*




                                                          F7=Prev
 F1=Help                F2=Return to Order              F3/F12=Veh Ord Menu
 F4=Submit    F5=Add to Library
S099 - PRESS F4 TO SUBMIT                                          QC06138
```

**ONE (1) – 2022 FORD MUSTANG MACH-E SELECT eAWD**

# BID WORKSHEET

**RFQ# FV-110421**

The Undersigned, as bidder, declares that the only person or parties interested in this RFQ as principals are those named herein; that this bid is made without collusion with any other person, firm, or corporation; that bidder and/or agent has carefully examined the location of the proposed work above described, that bidder and/or agent has examined the plans, terms and conditions and specifications therefore, and is familiar with all requirements, that bidder and/or agent has examined this Form and the provisions incorporated by reference herein; and bidder and/or agent hereby proposes, and agrees to the Contract apparatus, and other means of construction, and to do all the work and furnish all the materials in accordance with the scope of work in the time stated herein, for the unit price and/or lump sum price as follows:

**BASE PRICE:** 50,495

**SALES TAX: (9.25%)** 4,678.65 **(ADD TO BASE PRICE ONLY)**

**SUB-TOTAL:** 55,173.65

**DISCOUNTS:** _____

**DOC FEES:** 85.00

**TIRE FEES:** 8.75

**DELIVERY:** _____

**PRICE:** 55,267.40 **EA**

**TOTAL COST: (1)**

Fifty five thousand two hundred Sixty Seven dollars 40/100

**(Written out in numeral amount)**

$ 55267.40

**(Numeral Amount)**

**# OF DAYS FOR DELIVERY, AFTER RECEIPT OF P.O.** _____

Vendor: All Star Ford

Address: 3800 Century Way City/State: Pittsburg, CA Zip: 94565

Contact Name: Lewis Kandel

Signature: Lewis Kandel Title: Fleet Manager

Telephone: (925) 752-7830 Fax: (925) 752-7872

Email: lkandel@allstarford.net

**NOTE: This Bid Worksheet must be completed and returned with all applicable attachments to the City. Any bid submitted, absent this worksheet will not be considered.**

## One (1) 2022 FORD MUSTANG MACH-E SELECT eAWD

The City of Pittsburg and Pittsburg Police Department are looking to purchase One (1) new 2022 Ford Mustang Mach-E Select vehicle.

Mustang Mach-E Select eAWD – **K1S**

AWD

Primary Electric Motor (Rear) Secondary Electric Motor (Front) / 68kWh Usable Capacity Standard High-Voltage Battery – **99S**

Single-Speed Transmission – **44A**

Equipment Group – **100A**

COLOR -- Exterior – Dark Matter Gray – **HY**
Interior – Black Onyx – **SJ**

MEET ALL CALIFORNIA AND FEDERAL EMISSIONS STANDARDS

WARRANTY

- 3 --- Year / 36,000 Miles Bumper / Bumper
- 8 --- Year / 100,000 Hybrid / Electric Vehicle

FORD PROTECT EXTENDED CAR SERVICE PLAN

- 8 --- Year / 150,000 Miles (zero deductible)

(4) Sets of Keys/Fobs

All other items considered Standard Equipment.

To include All options below:

- Comfort / Technology Package - **67V**

# MAJOR PRODUCT CHANGES

## OVERVIEW

2022 Mustang Mach-E is the all-new, all-electric SUV from Ford, available in RWD or eAWD. Mustang Mach-E brings exhilarating performance, beautiful design and advanced connectivity.

**To learn more about the features on this vehicle, go to www.fordesourcebook.com**

## SERIES/EQUIPMENT GROUP AVAILABILITY

- **Series Line Up:**
  - **Select:** 70kWh Usable Capacity Standard Range High-Voltage Battery (RWD or eAWD)
  - **California Route 1**: 91kWh Usable Capacity Extended Range High-Voltage Battery (RWD or eAWD★)
  - **Premium:** 70kWh Usable Capacity Standard Range High-Voltage Battery or 91kWh Usable Capacity Extended Range High-Voltage Battery (RWD or eAWD)
  - **GT:** 91kWh Usable Capacity Extended Range High-Voltage Battery (eAWD)
    - For availability of the GT Performance Edition, please refer to the GT Series Equipment Group section
- ★ ***New***
  - California Route 1 eAWD (K2S)
  - Standard and Extended Range High-Voltage Batteries – improved Usable Capacity
- ***Deleted***
  - First Edition eAWD Equipment Group 301A

## MECHANICAL

- ★ ***New***
  - None
- ***Changed***
  - None
- ***Deleted***
  - None

## EXTERIOR

- ★ ***New***
  - None
- ***Changed***
  - 19" Shadow Silver-Painted Aluminum Wheels with High Gloss Black-Painted Aero Cover is optional on Select
  - Black Painted Roof is standard on GT and GT Performance Edition
- ***Deleted***
  - None
- ★ ***New Paint***
  - Iced Blue Silver Metallic (GP)
- ***Changed Paint***
  - Cyber Orange Metallic Tri-Coat (SB) and Grabber Blue Metallic (AE) are available on all series. Not available with the Ice White Appearance Package (55Q).
- ***Deleted Paint***
  - Carbonized Gray
  - Iconic Silver

## INTERIOR/COMFORT

- ★ ***New***
  - None
- ***Changed***
  - Heated Front Row Seats and Heated Steering Wheel are standard on California Route 1
- ***Deleted***
  - None

## SAFETY/SECURITY

- ★ ***New***
  - None

## SAFETY/SECURITY (continued)

- ***Changed***
  - None
- ***Deleted***
  - None

## FORD CO-PILOT360™ TECHNOLOGY

**Note:** Details for each level of Ford Co-Pilot360™ 2.0 are provided on subsequent pages in this Order Guide

- ★ ***New***
  - None
- ***Changed***
  - Reverse Sensing System to Rear Parking Sensors
  - Lane Centering to Lane Centering Assist
- ***Deleted***
  - None

## FUNCTIONAL

- ★ ***New***
  - None
- ***Changed***
  - Front Trunk – Drainable is now called *"Frunk – Drainable"*
- ***Deleted***
  - None

## PACKAGE

- ★ ***New***
  - Ice White Appearance Package (55Q) (Optional on Premium)
    - Exterior
      - 19" Machined-Face Aluminum Wheels with Oxford White-Painted Pockets
      - Star White Metallic Tri-Coat Exterior Sideview Mirror Caps
      - Star White Metallic Tri-Coat Paint
      - Star White-Painted Wheellip Moldings
      - Unique Oxford White Front Door Badging
      - Unique Oxford White Pony Badges
    - Interior
      - Gloss White Dashboard insert
      - Light Space Gray Door Armrests
      - Light Space Gray Dual Center Armrest
      - Light Space Gray Seats
      - Unique Oxford White Steering Wheel Pony Badge
- ***Changed***
  - Selection of the Interior Protection Package will add the Front and Rear Floor Liners and delete the standard Front and Rear Carpet Floor Mats
- ***Deleted***
  - First Edition Package
  - Comfort / Appearance Package

## 2022 MUSTANG MACH-E ORDER COMBINATIONS

- **Mustang Mach-E Select RWD: 70kWh Usable Capacity Standard Range High-Voltage Battery**
  - Body Code: K1R
  - Order Code:100A

**Product Changes and Features Availability**

Features, options and package content subject to change. Please check www.fmcdealer.com for the most current information.

★ = New for this model year

- **Mustang Mach-E Select eAWD: 70kWh Usable Capacity Standard Range High-Voltage Battery**
  - — Body Code: K1S
  - — Order Code: 100A

**2022 MUSTANG MACH-E ORDER COMBINATIONS (continued)**

- **Mustang Mach-E California Route 1 RWD: 91kWh Usable Capacity Extended Range High-Voltage Battery**
  - — Body Code: K2R
  - — Order Code: 200A
- ★ **Mustang Mach-E California Route 1 eAWD: 91kWh Usable Capacity Extended Range High-Voltage Battery**
  - — Body Code: K2S
  - — Order Code: 200A
- **Mustang Mach-E Premium RWD: 70kWh Usable Capacity Standard Range High-Voltage Battery or 91kWh Usable Capacity Extended Range High-Voltage Battery**
  - — Body Code: K3R
  - — Order Code: 300A
- **Mustang Mach-E Premium eAWD: 70kWh Usable Capacity Standard Range High-Voltage Battery or 91kWh Usable Capacity Extended Range High-Voltage Battery**
  - — Body Code: K3S
  - — Order Code: 300A
- **Mustang Mach-E GT eAWD: 91kWh Usable Capacity Extended Range High-Voltage Battery)**
  - — Body Code: K4S
  - — Order Code: 400A

**LATE AVAILABILITY – Subject to Change**

- No offerings are Late Availability at this time

**Product Changes and Features Availability**

Features, options and package content subject to change. Please check www.fmcdealer.com for the most current information.

★ = New for this model year

# 2022 MUSTANG MACH-E SELECT
# STANDARD EQUIPMENT

The following equipment is standard on every Mustang Mach-E Select

## MECHANICAL

- Battery – 70kWh Usable Capacity Standard Range High-Voltage
- Electric Drive
  - Primary Electric Motor (Rear)
  - Transmission – Single-Speed
- Electric Parking Brake (Includes Auto Hold)
- Four-Wheel Disc Brakes with Anti-Lock Brake System (ABS)

## EXTERIOR

- Active Grille Shutters
- Black Molded-in-Color
  - Front Grille Applique Insert
  - Front/Rear Door Cladding
  - Front/Rear Wheellip Moldings
  - Rocker Panel
- Black Upper Window Molding with High Gloss Black Beltline Molding
- Configurable Daytime Running Lamps (DRL)
- Front Door Grabber Handle
- Front/Rear Fascia – Body-Color Upper / Black Molded-in-Color Lower with Front Body Color Insert
- Liftgate – Manual
- Rear Spoiler – Black Painted
- Sharkfin Roof-Mounted Antenna (4G, GPS)
- Taillamps – LED with Sequential Turn Signals
- Tires
  - 225/60R18 All-Season (A/S) BSW
  - Tire Inflator and Sealant Kit (located under load floor)
- Wheels
  - 18" Carbonized Gray-Painted Aluminum
- Wheel Center Cap – Brushed Aluminum with High Gloss Black Pony Graphic
- Windshield – Laminated Glass
- Windshield Wiper De-Icer
- Wipers
  - Windshield – Variable-Intermittent/Continuous
  - Rear Window – Fixed-Intermittent/Continuous

## INTERIOR/COMFORT

- Center Floor Console with Pedestal Armrest
- Climate Control
  - Cabin Particulate Air Filter
  - Dual-Zone Electronic Automatic Temperature Control (DEATC)
  - Second Row Air Registers
- Beverage Holders – Four (4), two (2) front, two (2) rear
- Driver's Side Footrest
- Floor Mats, Front and Rear – Carpet[1]
- Front Door Scuff Plates – Black MIC with Pony Graphic
- Grab Handles – Driver and Front Passenger. Second Row – two (2), includes Coat Hooks.
- Instrument Panel
  - 10.2" Digital Cluster Screen
  - Message Center
  - Outside Temperature Display
  - Trip Computer
- Lighting
  - Front Map Lights
  - Illuminated Entry System with Courtesy Lamp Delay
  - Rear Cargo Area Light
  - Second Row Dome Light
- Map Pocket – Driver and Front Passenger Seat Back
- Powerpoints (12V) – Front Console, one (1); Cargo Area one (1)
- Rotary Gear Shift Dial
- Seats
  - ActiveX™ Seating Material
  - Five Passenger
  - 8-Way Power Driver (Fore/Aft, Up/Down, Power Lumbar, Power Recline)
  - 4-Way Manual Front Passenger (Fore/Aft with Manual Recline)
  - Second Row 60/40 Split-Fold-Flat, Fold-Down Center Armrest with Beverage Holders – two (2)
- Sliding Sun Visors with Illuminated Vanity Mirrors (Driver and Front Passenger)
- Steering Column – Manual Tilt/Telescoping
- Steering Wheel
  - Soft Vinyl Wrapped
  - Steering Wheel Mounted Controls

[1] The standard Front and Rear Carpet Floor Mats are deleted when the Interior Protection Package is selected

## INTERIOR/COMFORT (continued)

- Storage
  - Front Row: Under the Pedestal Center Console Armrest, Stowage Bins on front doors, Glove Box, Open Media Bin, Overhead Console with Sunglasses Storage
  - Cargo Area: Adjustable load floor, charge cord storage integrated under load floor
- Windows, Power
  - Global Open/Close
  - One-Touch Up/Down Feature (Front and Rear)

## SAFETY/SECURITY

- AdvanceTrac™
- Advanced Security Pack – Includes SecuriLock® Passive Anti-Theft System (PATS) and Inclination / Intrusion Sensors
- Airbags
  - Driver and Front Row Passenger Dual-Stage
  - Driver Knee
  - Front-Seat Mounted Side-Impact
  - Rear-Seat Mounted Side-Impact
  - Side Curtain
- Auto-Dimming Rearview Mirror
- Center High-Mounted Stop Lamp (CHMSL)
- Door Locks
  - Autolock/Autounlock
  - Child-Safety Rear, Power
  - E-Latch with Push-button to open doors
  - Power Lock/Unlock
- Electronic Stability Control
- Electronic Traction Control
- Headlamps
  - Courtesy Delay
  - LED Reflector
  - Wiper-Activated
- Head Restraints
  - Two-Way Manually Adjustable Driver and Front-Passenger
  - Two-Way Manually Adjustable Second Row (Center Head Restraint only; Outboard are fixed position.)
- Hooks — Cargo Tie-Down – Two (2)
- Individual Tire Pressure Monitoring System (iTPMS)
- LATCH (Lower Anchors and Tether Anchors for Children) on Rear Outboard Seat Positions
- Mirrors, Sideview – Heated Power Glass, Manual-Fold, LED Turn Signals, Pony Projection Lamp and Body-Color Caps
- MyKey®
- Rear-Window Defroster and Washer
- Safety Belts
  - Front and Second Row – Belt-Minder® (Safety Belt Reminder)
  - Front Row Height Adjustable
  - Second Row Outboard and Center Seat Shoulder
  - Three-Point Safety Belts on all (5) Seating Positions
- SOS Post-Crash Alert System™

## FORD CO-PILOT360™ TECHNOLOGY

- Audible Vehicle Alert System (Alerts Pedestrians)
- Ford Co-Pilot360™ 2.0
  - Auto High-Beam Headlamps
  - BLIS® (Blind Spot Information System) with Cross-Traffic Alert
  - Lane-Keeping System
    - Lane-Keeping Alert
    - Lane-Keeping Aid
    - Driver Alert
  - Pre-Collision Assist with Automatic Emergency Braking (AEB)
    - Pedestrian Detection
    - Forward Collision Warning
    - Dynamic Brake Support
  - Post-Collision Braking
  - Rear Parking Sensors
  - Rear View Camera
  - Reverse Brake Assist
- Rain-Sensing Wipers (Front Only)

★ = New for this model year

# STANDARD EQUIPMENT

## FORD CO-PILOT360™ TECHNOLOGY (continued)

- Ford Co-Pilot360™ Assist 2.0[2]
  - — Intelligent Adaptive Cruise Control with
    - o Stop-and-Go
    - o Lane Centering Assist
    - o Speed Sign Recognition
  - — Evasive Steering Assist
  - — Intersection Assist
  - — Connected Built-In Navigation with 3 Years of Service, EV Trip Planner, Pinch-to-Zoom Capability, Live Traffic, Predictive Destinations and Route Guidance

    **Note:** Navigation service requires SYNC®4 and FordPass Connect (optional on select vehicles), complimentary connect service and the FordPass app (see FordPass Terms for details). Customer receives a complimentary 3-year trial of navigation services when an eligible vehicle is added to member's FordPass account. Trial period begins with new vehicle warranty start date. At the end of the complimentary period, access to connected navigation services will be discontinued.

    Connected service and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features.

    FordPass App, compatible with select smartphone platforms, is available via a download. Message and data rates may apply.
- Forward Sensing System
- Headlamps – Autolamp (Automatic On/Off)

## FUNCTIONAL

- 4-Door Intelligent Access (Lock/Unlock) with Push-Button Start and SecuriCode® Keyless Entry Keypad
- Audio
  - — AM/FM Stereo
  - — Six (6) Speakers
  - — Media Bin, Open
  - — MP3 Capable
  - — Speed-Compensated Volume
  - — SiriusXM® with 360L
    - o Super Categories / Live Sports Categories
    - o "For You" Recommendations
    - o SiriusXM Listener Profiles

    **Note:** Includes a three (3)-month prepaid subscription. Service is not available in Alaska and Hawaii.
    Trial length and service availability may vary by model, model year or trim.
    **Details:** SiriusXM audio and data services each require a subscription sold separately, or as a package, by Sirius XM Radio Inc. Your SiriusXM service will automatically stop at the end of your trial unless you decide to subscribe. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM Customer Agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Not all vehicles or devices are capable of receiving all services offered by SiriusXM. Current information and features may not be available in all locations, or on all receivers. Satellite and streaming lineups vary slightly.
    © 2020 Sirius XM Radio Inc. Sirius, XM, SiriusXM and all related marks and logos are trademarks of Sirius XM Radio Inc.
- Charge Cord
  - — Switchable cord end to allow customer charge functionality with 120V (NEMA 5-15) up to 15 Amps or 240V (NEMA 14-50) up to 32 Amps
  - — Portable Charge Cord
  - — Single Phase On-board Charger

[2] Incremental to the standard Ford Co-Pilot360™ 2.0 features.

## FUNCTIONAL (continued)

- Charge Capability
  - — SAE J1772 CCS (Combo Connector System) Charge Port capable of charging[3] on 120V, 240V and Direct Current (DC Fast Charge)[4]
  - — AC Charging: Up to 10.5kW with 48 Amps capability
  - — DC Charging: Up to 150kW capability
  - — LED Charge Status Indicator on Charge Port with Courtesy Illumination
- Charge Management
  - — Ability to adjust and schedule charging along with intergration to FordPass Connect™
- Compass (Direction Symbols)
- Electric Power-Assisted Steering (EPAS)
- Enhanced Memory – Save settings for Driver Display, Radio, Navigation and Driver Assistance Technologies
- FordPass Connect™
  - — 4G LTE Wi-Fi hotspot connects up to 10 devices[5]
  - — Enables FordPass App Features
  - — FordPass App Features:
    - o Remotely start, lock and unlock vehicle[6]
    - o Locate parked vehicle[6]
    - o Check vehicle current state of charge and set departure times[6]
    - o Schedule times to charge your vehicle and set charge level notifications[6]
    - o Set preferences with Remote Vehicle Setup[6]
    - o FordPass™ Power My Trip[6]
    - o Locate & pay for charging[6, 7]
    - o Set up Plug & Charge
    - o Phone As A Key[6]

      **Note:** Vehicle comes equipped with one (1) key fob

      **Note:** Telematics Solutions (both complimentary and subscription based) are available for Fleet Customers, providing access to manufacturer-grade data including but not limited to vehicle location, speed, idle time, fuel/energy, range, vehicle diagnostics, and maintenance alerts. FordPass Connect™ 4G Wi-Fi Modem, enables telematics services directly from Ford or through authorized third party providers. Learn more at commercial solutions.ford.com or email fcs1@ford.com or by calling 833-FCS-Ford. (833-327-3673).
- Front and Rear Stabilizer Bar
- Frunk – Drainable
- Regenerative Braking System
- SYNC® 4A with Enhanced Voice Recognition
  - — 15.5" LCD Capacitive Touchscreen with Swipe Capability
  - — Wireless Phone Connection
  - — Cloud Connected
  - — AppLink® w/ App Catalog
  - — 911® Assist
  - — Wireless Apple CarPlay® and Android Auto™ Compatibility
  - — Digital Owner's Manual
  - — Adaptive Dashcards
  - — Personal Profiles
  - — Conversational Voice Command Recognition
- Three Selectable Drive Modes (Engage, Whisper, Unbridled) and One Pedal Driving Mode
  - — EcoCoach (efficient driving assistant) – available with Engage mode
- USB Ports, First and Second Rows – One (1) "A" and one (1) "C" in each row
- Transmission Oil Cooler
- Universal Garage Door Opener (UGDO)
- Wireless Charging Pad

[3] When vehicle is attached to appropriate EVSE or portable charge cord
[4] Two (2)-Year access to Ford Virtual Charging Network
[5] Wi-Fi hotspot includes wireless data trial that begins upon AT&T activation and expires at the end of 3 months or when 3GB of data is used, whichever comes first, but cannot extend beyond the trial subscription period for remote features. To activate, go to www.att.com/ford
[6] FordPass Connect (optional on select vehicles), the Ford Pass App., and Complimentary Connected Services are required for remote features (see FordPass Terms for details). Connected Service and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. Connected services excludes Wi-Fi hotspot.
[7] Complimentary 2-year trial begins with EV New Vehicle Limited Warranty start date. Customer will be billed for all fees including but not limited to fees for use of charging stations and any related parking fees.

★ = New for this model year

# 2022 MUSTANG MACH-E SELECT EQUIPMENT GROUP



| Series | Order Code | SELECT |
|---|---|---|
| Mustang Mach-E Select RWD | K1R | S |
| Mustang Mach-E Select eAWD | K1S | O |
| • Primary Electric Motor (Rear)<br>• 70kWh Usable Capacity Standard Range High-Voltage Battery<br>**Note:** Requires Select RWD (K1R) | 99M | S |
| • Primary Electric Motor (Rear) / Secondary Electric Motor (Front)<br>• 70kWh Usable Capacity Standard Range High-Voltage Battery<br>**Note:** Requires Select eAWD (K1S) | 99S | S |
| Single-Speed Transmission | 44A | S |
| **Entities (Series, Drive, Motor/Battery, Transmission)**<br>**(This section is for WBDO users only)** | | |
| • Mustang Mach-E Select RWD<br>• Primary Electric Motor (Rear) / 70kWh Usable Capacity Standard Range High-Voltage Battery<br>• Single-Speed Transmission | K1R<br>99M<br>44A | 100A |
| • Mustang Mach-E Select eAWD<br>• Primary Electric Motor (Rear) / Secondary Electric Motor (Front) / 70kWh Usable Capacity Standard Range High-Voltage Battery<br>• Single-Speed Transmission | K1S<br>99S<br>44A | 100A |

| Equipment Group | | Standard Package (100A) |
|---|---|---|
| **Free Standing Packages & Options (FSO)** | | |
| **Comfort / Technology Package**<br>• Ford Co-Pilot360™ Active 2.0[1]<br>– BlueCruise (hands-free driving)[2]<br>– Active Park Assist 2.0<br>• 360-Degree Camera with Split View and Front Washer<br>• Cargo Area Cover<br>• Hands-Free, Foot-Activated Liftgate (includes Power Liftgate functionality)[1]<br>• Heated Front Row Seats<br>• Heated Steering Wheel<br>• Memory – Driver's Seat and Sideview Power-Folding Mirrors<br>• Seats – 6-way Manual Passenger | 67V | O |
| 19" Shadow Silver-Painted Aluminum Wheels with High Gloss Black-Painted Aero Cover | 645 | O |
| Cyber Orange Metallic Tri-Coat | SB | O |
| Rapid Red Metallic Tinted Clearcoat | D4 | O |
| Star White Metallic Tri-Coat | AZ | O |
| Front License Plate Bracket<br>**Note:** See "Emissions" section for additional information | 153 | O |
| **Ford Accessories (Custom Accessories, Pre-Installed)** | | |
| **Interior Protection Package**<br>• Cargo Area Protector<br>• Floor Liners, Front and Rear (without Carpet Floor Mats)<br>**Note:** Deletes standard Front and Rear Carpeted Floor Mats | 17P | O |
| **Fleet Only Options (with valid FIN code)** | | |
| Daytime Running Lamps (DRL) (Non-Configurable)<br>**Note:** Replaces the standard Configurable Daytime Running Lamps (DRL) | 942 | O |

[1] Incremental to the standard Ford Co-Pilot360™ 2.0 and Ford Co-Pilot360™ Assist 2.0 features. Refer to the Ford Co-Pilot360™ Technology section on the Select Series Standard Equipment page for feature listing.

[2] Driver-assist features are supplemental and do not replace the driver's attention, judgment and need to control the vehicle. It does not replace safe driving. See owner's manual for details and limitations

★ = New for this model year

I = Included in Equipment Group, S = Standard Equipment, O = Optional

CNGP530 VEHICLE ORDER CONFIRMATION 10/27/21 20:44:06

==> _____ _____ Dealer: F72428

2022 MUSTANG MACH-E Page: 1 of 1

Order No: P001 Priority: A2 Ord FIN: QA464 Order Type: 5B Price Level: 215

Ord Code: 100A Cust/Flt Name: CITY OF PITTS PO Number:

| | | RETAIL | DLR INV |
|---|---|---|---|
| K1S | SELECT AWD | $45595 | $45595.00 |
| | .117.5" WHEELBS | | |
| HY | DARK MATTER GRY | | |
| S | ACTIVEX SEATS | | |
| J | BLACK ONYX | | |
| 100A | EQUIP GRP | | |
| | .18"GRAY PTD WHL | | |
| 99S | .70WH STD BAT | NC | NC |
| 44A | .SNGL SPD TRANS | NC | NC |
| | 225/60R18 A/S | | |
| 67V | COMFORT/TECH PK | 3200 | 3200.00 |
| | .CO-PILOT360 ACT | | |
| | .BLUECRUISE | | |
| | .ACTIVE PARK AST | | |
| | .360-DEGREE CAM | | |

| | | RETAIL | DLR INV |
|---|---|---|---|
| | .HANDS-FREE L/GT | | |
| | .HEATED FRT SEAT | | |
| | .HTD STEERING WH | | |
| | .MEM SEAT/MIRROR | | |
| 153 | FRT LICENSE BKT | NC | NC |
| | CAL. BOARD FEES | NC | .65 |
| | FLEET ADV CRED | NC | NC |
| 56M | FLEET INCENTIVE | NC | .00 |
| | FUEL CHARGE | | .00 |
| B4A | NET INV FLT OPT | NC | NC |
| | DEST AND DELIV | 1100 | 1100.00 |
| TOTAL | BASE AND OPTIONS | 49895 | 49895.65 |
| TOTAL | | 49895 | 49895.65 |
| *THIS | IS NOT AN INVOICE* | | |

F1=Help F2=Return to Order F3/F12=Veh Ord Menu

F4=Submit F5=Add to Library

S099 - PRESS F4 TO SUBMIT QC06138

THREE (3) – 2022 FORD ESCAPE PHEV (PLUG-IN HYBRID) FWD

# BID WORKSHEET

## RFQ# FV-110421

The Undersigned, as bidder, declares that the only person or parties interested in this RFQ as principals are those named herein; that this bid is made without collusion with any other person, firm, or corporation; that bidder and/or agent has carefully examined the location of the proposed work above described, that bidder and/or agent has examined the plans, terms and conditions and specifications therefore, and is familiar with all requirements, that bidder and/or agent has examined this Form and the provisions incorporated by reference herein; and bidder and/or agent hereby proposes, and agrees to the Contract apparatus, and other means of construction, and to do all the work and furnish all the materials in accordance with the scope of work in the time stated herein, for the unit price and/or lump sum price as follows:

**BASE PRICE:** 33,367.40

**SALES TAX: (9.25%)** 3,094.35 **(ADD TO BASE PRICE ONLY)**

**SUB-TOTAL:** 36,461.75

**DISCOUNTS:** _____

**DOC FEES:** 85.00

**TIRE FEES:** 8.75

**DELIVERY:** _____

**PRICE:** 36,555.50 **EA**

**TOTAL COST: (3)**

One hundred nine thousand Six hundred sixty Six dollars 50/100 — **(Written out in numeral amount)**

$ 109,666.50 — **(Numeral Amount)**

**# OF DAYS FOR DELIVERY, AFTER RECEIPT OF P.O.** _____

Vendor: All Star Ford

Address: 3800 Century Way City/State: Pittsburg, CA Zip: 94565

Contact Name: Lewis Kandel

Signature: Lewis Kandel Title: Fleet Manager

Telephone: (925) 752-7830 Fax: (925) 752-7872

Email: LKandel@AllStarFord.net

**NOTE: This Bid Worksheet must be completed and returned with all applicable attachments to the City. Any bid submitted, absent this worksheet will not be considered.**

## THREE (3) 2022 FORD ESCAPE PHEV (PLUG-IN HYBRID) FWD

The City of Pittsburg and Pittsburg Police Department are looking to purchase THREE (3) new 2022 Ford Escape PHEV (Plug-in Hybrid) vehicles.

ENGINE --------- 2.5L iVCT Atkinson Cycle I-4 Hybrid **U0E/99Z/445**

FWD

TRANSMISSION---- Automatic-eCVT

Equipment Group – **600A**

4H Ind.

COLOR----(1 unit) Agate Black Metallic – **UM**
(2 units) Iconic Silver Metallic – **JS** (If Iconic Silver Metallic not readily available at time of purchase, Carbonized Gray Metallic – **M7** or Oxford White – **YZ** can be substituted)

MEET ALL CALIFORNIA AND FEDERAL EMISSIONS STANDARDS

WARRANTY

- 3 --- Year / 36,000 Miles Bumper / Bumper
- 8---Year / 100,000 Miles Hybrid / Electric Vehicle

FORD PROTECT EXTENDED CAR SERVICE PLAN

- 8 --- YEAR/ 150,000-Miles (zero deductible)

(4) Sets of Keys/Fobs

All other items considered Standard Equipment

To include All options below:

- Ford Co-Pilot360 Assist+ – **68B**
- Floor Liners, Front and Rear – **50C**
- Mini Spare Wheel – **51U**

# MAJOR PRODUCT CHANGES

**To learn more about the features on this vehicle, go to www.fordesourcebook.com**

## SERIES/EQUIPMENT GROUP AVAILABILITY

- Series Line Up: SE, SEL, and Titanium
- ***Changed***
  - — None

## MECHANICAL

- ★ ***New***
  - — None
- ***Changed***
  - — None
- ***Deleted***
  - — None

## EXTERIOR

- ★ ***New***
  - — None
- ***Changed***
  - — Roof-Rack Rails available as a free standing option on SEL
- ***Deleted***
  - — None
- ★ ***New Colors***
  - — Atlas Blue Metallic (B3)
  - — Stone Blue Metallic (C8)
  - — Iced Blue Silver Metallic (GP)
- ***Deleted Colors***
  - — Antimatter Blue
  - — Bronze Fire
  - — Desert Gold
  - — Velocity Blue

## INTERIOR/COMFORT

- ★ ***New***
  - — None
- ***Changed***
  - — 8-way power driver seat included in SE Convenience Package and standard on SEL
  - — 10-way Power Driver Seat available in SEL Technology Package and standard on Titanium
  - — Panoramic Vista Roof no longer included in Titanium Premium Package
- ***Deleted***
  - — None

## SAFETY/SECURITY

- ★ ***New***
  - — None
- ***Changed***
  - — None
- ***Deleted***
  - — None

## FORD CO-PILOT360™ TECHNOLOGY

- ★ ***New***
  - — None
- ***Changed***
  - — Active Park Assist included in Titanium Premium
- ***Deleted***
  - — None

## FUNCTIONAL

- ★ ***New***
  - — None
- ***Changed***
  - — SecuriCode™ Keyless-Entry Keypad standard on SEL and above
  - — B&O Sound System by Bang & Olufsen, 10-Speakers including Subwoofers and HD Radio included in Titanium Premium
- ***Deleted***
  - — None

## PACKAGES

- ★ ***New***
  - — None
- ***Changed***
  - — None
- ***Deleted***
  - — None

## OTHER

- ***New***
  - — Dealer Installed Option (DIO). Refer to the series Equipment Group sections for feature availability.
    - Cargo Organizer – Soft-Sided Cooler Bag with Adjustable Carrying Strap and Ford Logo
    - Cargo Organizer – Soft-Sided Large, Folding, with Ford Logo
    - Cargo Organizer – Soft-Sided Standard, Folding, with Ford Logo
    - Center Console In-Vehicle Safe by Console Vault – With Coded Lock
    - First Aid Kit
    - Roadside Assistance Kit
- ***Changed***
  - — Factory Invoiced Accessories (FIA) to Dealer Installed Options (DIO). Order codes are no longer used for these features and they are orderable only through WBDO
- ***Deleted***
  - — None

## 2022 ESCAPE PHEV (Plug-In Hybrid)

## ORDER COMBINATIONS

- **Escape SE**
  - — Body Code: U0E (FWD)
  - — Order Code: Standard Package (600A)
- **Escape SEL**
  - — Body Code: U0K (FWD)
  - — Order Code: Standard Package (625A)
- **Escape Titanium**
  - — Body Code: U0L (FWD)
  - — Order Code: Standard Package (650A)

**Product Changes and Features Availability**

Features, options and package content subject to change. Please check www.fmcdealer.com for the most current information.

★ = New for this model year

# STANDARD EQUIPMENT

The following equipment is standard on every Escape SE PHEV

## MECHANICAL

- Electric Parking Brake (Includes Auto Hold)
- Engine: 2.5L iVCT Atkinson Cycle I-4 Hybrid
- Four-Wheel Disc Brakes with Anti-Lock Brake System (ABS)
- Transmission: eCVT

## EXTERIOR

- Active Grille Shutters
- Black – Molded-in-Color
  - — Lower Bodyside Cladding
  - — Rocker Panel
- Bright Upper Window Molding with Black Beltline Molding
- Bumpers/Fascia – Body-Color Upper/Molded-in-Color Lower
- Configurable Daytime Running Lamps (DRL)
- Door and Liftgate Handles – Body-Color
- Easy Fuel® Capless Fuel Filler
- Exhaust Tips, Dual – Chrome
- Grille, Upper – Black Mesh and Chrome Surround
- LED Taillamps
- Manual Liftgate
- Privacy Glass – Second Row Side and Liftgate
- Rear Spoiler – Body Color
- Roof-Mounted Antenna
- Skid Plates – Molded-in-Color Silver, Front and Rear
- Tire Inflator and Sealant Kit
  **Note:** Spare Wheel/Tire is not included
- Tires – 225/60R18 100H All Season A/S BSW
- Wheels – 18" Machined-face Ebony-painted Aluminum with Painted Pockets
- Wipers
  - — Windshield – Variable-Intermittent/Continuous
  - — Rear Window – Fixed-Intermittent/Continuous

## INTERIOR/COMFORT

- Center Floor Console with Armrest
- Cruise Control – Steering Wheel Mounted Controls
- Cupholders – (6)
- Driver's Side Footrest
- Dual-Zone Electronic Automatic Temperature Control (DEATC)
- Dual Vanity Mirrors
- Electronic Fuel Door Release
- Floor Mats – Carpeted Front and Rear
- Grab Handles – Front Passenger. Second Row – two (2), includes Coat Hooks.
- Instrument Panel
  - — 6.5" Color LCD Screen
  - — EcoMode
  - — Ice Blue® Lighting
  - — Message Center
  - — Outside Temperature Display
  - — Trip Computer
- Lighting
  - — Front Map Lights
  - — Illuminated Entry System with Courtesy Lamp Delay
  - — Rear Cargo Area Light
  - — Second Row Dome Light
- Map Pocket – Front-Passenger Seat Back
- Powerpoints (2) – (1) USB-A (1) USB-C
- Rotary Gear Shift Dial
- Seats
  - — Unique Cloth Bucket
  - — Five Passenger
  - — 6-Way Manual Driver (Fore/Aft, Up/Down, Recline)
  - — 4-Way Manual Front Passenger (Fore/Aft with Manual Recline)
  - — Second Row 60/40 Split-Fold-Flat and Sliding
- Sliding Sun Visors with Illuminated Vanity Mirrors (Driver and Front Passenger)
- Steering Column – Manual Tilt/Telescoping
- Steering Wheel – Urethane

## INTERIOR/COMFORT (continued)

- Storage
  - — Front Row: Center Console Armrest, Glove Box, Media Bins (two (2); in front and in center of the Console, Overhead Console with Sunglasses Storage
- Windows, Power – Front One-Touch Down Feature (Driver only)

## SAFETY/SECURITY

- AdvanceTrac® with RSC® (Roll Stability Control™)
- Airbags
  - — Driver and Front Row Passenger Dual-Stage
  - — Driver Knee
  - — Front-Seat Mounted Side-Impact
  - — Safety Canopy® System – Front and Second Row Safety Canopy® Side-Curtain with Rollover Sensor
- Center High-Mounted Stop Lamp (CHMSL)
- Curve Control
- Day/Night Rearview Mirror – Manually Adjustable
- Door Locks
  - — Autolock/Autounlock
  - — Child-Safety Rear
  - — Power Lock/Unlock
- Electronic Traction Control
- Headlamps
  - — Courtesy Delay
  - — Halogen Projector
  - — Wiper-Activated
- Head Restraints
  - — Two-Way Manually Adjustable Driver and Front-Passenger
  - — Two-Way Manually Adjustable Second Row (Left and Right; Center Head Restraint is fixed position.)
- Hooks — Cargo Tie-Down – two (2), Grocery – two (2)
- LATCH (Lower Anchors and Tether Anchors for Children) on Rear Outboard Seat Positions
- Mirrors, Sideview – Power Glass, Manual-Fold and Black Molded-in-Color (MIC) Caps
- MyKey®
- Personal Safety System™[1]
- Rear-Window Defroster and Washer
- Safety Belts
  - — Front and Second Row – Belt-Minder® (Safety Belt Reminder)
  - — Front Row Height Adjustable
  - — Second Row Outboard and Center Seat Shoulder
  - — Three-Point Safety Belts on all (5) Seating Positions
- SecuriLock® Passive Anti-Theft System (PATS) (S and SE Series)
- SOS Post-Crash Alert System™
- Tire Pressure Monitoring System (TPMS)
- Torque Vectoring Control

## FORD CO-PILOT360™ TECHNOLOGY

- Ford Co-Pilot360™ includes;
  - — Auto High Beam Headlamps
  - — BLIS® (Blind Spot Information System) with Cross-Traffic Alert
  - — Lane-Keeping System (includes Lane-Keeping Assist, Lane-Keeping Alert and Driver Alert)
  - — Pre-Collision Assist with Automatic Emergency Braking (AEB), Pedestrian Detection, Forward Collision Warning and Dynamic Brake Support)
  - — Rear View Camera
- Headlamps – Autolamp (Automatic On/Off)

[1] Personal Safety System™ for driver and front passenger includes dual-stage front airbags, safety belt pretensioners, safety belt energy-management retractors, safety belt usage sensors, driver's seat position sensor, crash severity sensor, restraint control module and Front-Passenger Sensing System.

★ = New for this model year

# STANDARD EQUIPMENT

## FORD CO-PILOT360™ TECHNOLOGY (continued)

- Post-Collision Braking
- Pedestrian Alert Sounder

## FUNCTIONAL

- Audio
  - — AM/FM Stereo
  - — SiriusXM®
  - — Six (6) Speakers
  - — Speed-Compensated Volume
  - — Steering Wheel Mounted Controls

  **Note:** SiriusXM® includes a three (3)-month prepaid subscription. Service is not available in Alaska and Hawaii.

  **Note:** SiriusXM audio and data services each require a subscription sold separately, or as a package, by Sirius XM Inc. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM Customer Agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Inc.
- Battery Saver
- Compass
- Electric Power-Assisted Steering (EPAS)

## FUNCTIONAL (continued)

- FordPass Connect™
  - — 4G LTE Wi-Fi hotspot connects up to 10 devices[2]
  - — Remotely start, lock and unlock vehicle[3]
  - — Schedule specific times to remotely start vehicle[3]
  - — Locate parked vehicle[3]
  - — Check vehicle status[3]

  **Note:** Ford Telematics and Data Services are telematics services available for fleet customers, providing access to manufacturer-grade vehicle data including but not limited to location, speed, idle time, remaining fuel, fuel energy, range, diagnostics, and maintenance alerts. FordPass Connect™ 4G Wi-Fi Modem, enables telematics services directly from Ford or through authorized third-party providers. Learn more at commercialvehicles.ford.com or email fcs1@ford.com or by calling 833-FCS-Ford. (833-327-3673).
- Front and Rear Stabilizer Bar
- Intelligent Access with Push-Button Start
- Intelligent Oil-Life Monitor®
- Keyless-Keysets – Passive Keys, Two (2)
- Provisions for Roof Rack Mounting – Blanking Plugs
- Selectable Drive Mode
- SYNC® 3
  - — Enhanced Voice Recognition Communications and Entertainment System
  - — 8" LCD Capacitive Touchscreen in Center Stack with Swipe Capability
  - — Pinch-to-Zoom capability included when equipped with available Voice-Activated Touchscreen Navigation
  - — AppLink®
  - — 911 Assist®
  - — Apple CarPlay™ and Android Auto™ Compatibility
  - — Smart-Charging USB Ports
- Transmission Oil Cooler
- Variable-Assist Rack-and-Pinion Steering

[2] Wi-Fi hotspot includes wireless data trail that begins upon AT&T activation and expires at the end of 3 months or when 3GB of data is used, whichever comes first, but cannot extend beyond the trial subscription period for remote features. To activate, go to www.att.com/ford.

[3] FordPass Connect™ (optional on select vehicles), the FordPass App., and Complimentary Connected Services are required for remote features (see FordPass Terms for details). Connected Service and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. Connected services excluded Wi-Fi hotspot.

★ = New for this model year

# EQUIPMENT GROUP

| Series | Order Code | SE |
|---|---|---|
| Escape PHEV (Plug-In Hybrid) FWD | U0E | S |
| • Engine: 2.5L iVCT Atkinson Cycle I-4 Hybrid<br>• Transmission: eCVT | 99Z/445 | S |
| **Entity Description (Series, Drive, Engine, Transmission)** | | |
| Escape PHEV (Plug-In Hybrid) FWD, 2.5L iVCT Atkinson Cycle I-4 Hybrid, eCVT | U0E / 99Z / 445 | 600A |
| **Equipment Group** | | **Standard Equipment (600A)** |
| **Free Standing Packages & Options (FSO)** | | |
| **Ford Co-Pilot360™ Assist+**<br>• Adaptive Cruise Control with Stop-and-Go and Lane Centering Assist<br>• Evasive Steering Assist<br>• Voice-Activated Touchscreen Navigation System with Pinch-to-Zoom Capability, SiriusXM Traffic and Travel Link®[1]<br>**Speed Sign Recognition**<br>**Note:** Adaptive Cruise Control with Speed Sign Recognition = Intelligent Adaptive Cruise Control | 68B | O |
| **Convenience Package**<br>• 8-Way Power Driver Seat (Fore/Aft, Up/Down, Power Lumbar and Power Recline)<br>• Headlamps – Halogen Projector with LED Signature Lighting and LED Configurable Daytime Running Lamps (DRL)<br>• Power Liftgate<br>• Premium Wrapped Steering Wheel<br>• Rear Center Armrest (Fold-Down with Two (2) Cupholders) | 86B | O |
| **Cold Weather Package**<br>• Heated Front Row<br>• Mirrors – Heated<br>• Remote Start System<br>• Steering Wheel – Heated and Premium Wrapped | 86C | O |
| Engine Block Heater | 41H | O |
| Rapid Red Metallic Tinted Clearcoat | D4 | O |
| Star White Metallic Tri-Coat | AZ | O |
| ★Stone Blue Metallic | C8 | O |
| Front License Plate Bracket<br>**Note:** See "Emissions" section for additional information | 153 | O |
| **Ford Accessories (Custom Accessories, Pre-Installed)** | | |
| Easy Access Cargo Shade | 47B | O |
| Floor Liners, Front and Rear (with Carpet Mats)<br>**Note:** Includes standard Floor Mats – Carpeted Front and Rear | 50B | O |
| Floor Liners, Front and Rear (without Carpet Mats)<br>**Note:** Deletes standard Floor Mats – Carpeted Front and Rear | 50C | O |
| Cargo Mat | 50Q | O |
| Mini Spare Wheel<br>**Note:** Includes Mini Spare Tire, Wheel Nut Wrench and Jack | 51U | O |
| Remote Start System – Long-Range with Confirmation (System includes two separate key fobs)<br>**Note:** Not available with the Cold Weather Package (86C) | 63E | O |
| Splash Guards | 63C | O |
| **Dealer Installed Options (DIO) – Shipped separately from the vehicle for dealer installation**<br>**Note: This feature is ordered through WBDO only** | | |
| ★Cargo Organizer – Soft-Sided Cooler Bag with Adjustable Carrying Strap and Ford Logo | | O |
| ★Cargo Organizer – Soft-Sided Large, Folding, with Ford Logo<br>**Note:** Not available with Cargo Organizer – Soft-Sided Standard, Folding, with Ford Logo | | O |

[1] **Note:** SiriusXM Traffic and Travel Link® includes a five (5)-year prepaid subscription. SiriusXM Traffic and Travel Link® service is not available in Alaska and Hawaii

**Note:** After your trial period ends, Sirius XM audio and data services each require a subscription sold separately, or as a package, by SiriusXM Inc. See SiriusXM Customer Agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Trial subscriptions not available in Alaska and Hawaii.

★ = New for this model year

I = Included in Equipment Group, S = Standard Equipment, O = Optional

# EQUIPMENT GROUP

| Equipment Group | | Standard Equipment (600A) |
|---|---|---|
| **Dealer Installed Options (DIO) – Shipped separately from the vehicle for dealer installation**<br>**Note: This feature is ordered through WBDO only (continued)** | | |
| ★Cargo Organizer – Soft-Sided Standard, Folding, with Ford Logo<br>**Note:** Not available with Cargo Organizer – Soft-Sided Large, Folding, with Ford Logo | | O |
| ★Center Console In-Vehicle Safe by Console Vault – With Coded Lock | | O |
| ★First Aid Kit | | O |
| ★ Roadside Assistance Kit | | O |
| Wheel-Locking Lug Nuts | | O |
| **Fleet Only Options (with valid FIN code)** | | |
| 8-Way Power Driver Seat (Fore/Aft, Up/Down, Power Lumbar and Power Recline)<br>**Note:** Included in the Convenience Package (86B) | 90K | O |
| Daytime Running Lamps (DRL) (Non-Configurable)<br>**Note:** Replaces the standard Configurable Daytime Running Lamps (DRL) | 942 | O |
| Rear Parking Sensor | 60S | O |
| Decal option up to 8 ft2 material<br>Minimum annual order of 25 units<br>**Note:** For order process details, go to www.Fordcommercialgraphics.com | 96B | O |
| Decal option up to 12 ft2 material<br>Minimum annual order of 25 units<br>**Note:** For order process details, go to www.Fordcommercialgraphics.com | 96C | O |
| Decal option up to 18 ft2 material<br>Minimum annual order of 25 units<br>**Note:** For order process details, go to www.Fordcommercialgraphics.com | 96D | O |
| Decal option up to 25 ft2 material<br>Minimum annual order of 25 units<br>**Note:** For order process details, go to www.Fordcommercialgraphics.com | 96E | O |
| Decal option up to 40 ft2 material<br>Minimum annual order of 25 units<br>**Note:** For order process details, go to www.Fordcommercialgraphics.com | 96F | O |
| Decal option up to 55 ft2 material<br>Minimum annual order of 25 units<br>**Note:** For order process details, go to www.Fordcommercialgraphics.com | 96G | O |

★ = New for this model year

I = Included in Equipment Group, S = Standard Equipment, O = Optional

CNGP530 VEHICLE ORDER CONFIRMATION 10/27/21 21:02:34
==> _____ _____ Dealer: F72428
2022 ESCAPE Page: 1 of 1
Order No: P003 Priority: B2 Ord FIN: QA464 Order Type: 5B Price Level: 220
Ord Code: 600A Cust/Flt Name: CITY OF PITTS PO Number:

| | | RETAIL | DLR INV | | | RETAIL | DLR INV |
|---|---|---|---|---|---|---|---|
| U0E | SE PHEV FWD | $33075 | $31752.00 | | .VOICE ACTV NAV | | |
| | .106.7" WB | | | | .ADP W/STOP N GO | | |
| JS | ICONIC SILVER | | | 153 | FRT LICENSE BKT | NC | NC |
| 4 | UNIQUE CLTH STS | | | | FUEL CHARGE | | 6.40 |
| H | EBONY | | | | DEST AND DELIV | 1245 | 1245.00 |
| 600A | EQUIP GRP | | | TOTAL | BASE AND OPTIONS | 35485 | 32867.40 |
| | .18" ALUM WHEEL | | | TOTAL | | 35485 | 32867.40 |
| 99Z | .2.5L I-VCT ENG | NC | NC | *THIS IS NOT AN INVOICE* | | | |
| 445 | .ECVT TRANS | NC | NC | | | | +500 |
| | .225/60R18 TIRES | | | | | | |
| | FLEET ADV CRED | NC | (480.00) | | | | |
| 50C | FLR LNR W/O MTS | 160 | 150.00 | | | | |
| 51U | MINI SP TR/WHL | 110 | 103.00 | | | | |
| 56M | FLEET INCENTIVE | NC | (750.00) | | | | |
| 68B | 360 ASSIST PKG | 895 | 841.00 | | | | |

F1=Help F2=Return to Order F3/F12=Veh Ord Menu
F4=Submit F17=Delete Entry
S099 - PRESS F4 TO SUBMIT QC06138

CNGP530 VEHICLE ORDER CONFIRMATION 10/27/21 20:55:44
==> _____ _____ Dealer: F72428
2022 ESCAPE Page: 1 of 1
Order No: P002 Priority: B2 Ord FIN: QA464 Order Type: 5B Price Level: 220
Ord Code: 600A Cust/Flt Name: CITY OF PITT PO Number:

| | | RETAIL | DLR INV | | | RETAIL | DLR INV |
|---|---|---|---|---|---|---|---|
| U0E | SE PHEV FWD | $33075 | $31752.00 | | .VOICE ACTV NAV | | |
| | .106.7" WB | | | | .ADP W/STOP N GO | | |
| UM | AGATE BLACK | | | 153 | FRT LICENSE BKT | NC | NC |
| 4 | UNIQUE CLTH STS | | | | FUEL CHARGE | | 6.40 |
| H | EBONY | | | | DEST AND DELIV | 1245 | 1245.00 |
| 600A | EQUIP GRP | | | TOTAL | BASE AND OPTIONS | 35485 | 32867.40 |
| | .18" ALUM WHEEL | | | TOTAL | | 35485 | 32867.40 |
| 99Z | .2.5L I-VCT ENG | NC | NC | *THIS IS NOT AN INVOICE* | | | |
| 445 | .ECVT TRANS | NC | NC | | | | +500 |
| | .225/60R18 TIRES | | | | | | |
| | FLEET ADV CRED | NC | (480.00) | | | | |
| 50C | FLR LNR W/O MTS | 160 | 150.00 | | | | |
| 51U | MINI SP TR/WHL | 110 | 103.00 | | | | |
| 56M | FLEET INCENTIVE | NC | (750.00) | | | | |
| 68B | 360 ASSIST PKG | 895 | 841.00 | | | | |

F1=Help F2=Return to Order F3/F12=Veh Ord Menu
F4=Submit F5=Add to Library
S099 - PRESS F4 TO SUBMIT QC06138

**FIVE (5) – 2022 FORD F250 REG CAB 4X2 XL SCELZI SERVICE BODY**

# BID WORKSHEET

**RFQ# FV-110421**

The Undersigned, as bidder, declares that the only person or parties interested in this RFQ as principals are those named herein; that this bid is made without collusion with any other person, firm, or corporation; that bidder and/or agent has carefully examined the location of the proposed work above described, that bidder and/or agent has examined the plans, terms and conditions and specifications therefore, and is familiar with all requirements, that bidder and/or agent has examined this Form and the provisions incorporated by reference herein; and bidder and/or agent hereby proposes, and agrees to the Contract apparatus, and other means of construction, and to do all the work and furnish all the materials in accordance with the scope of work in the time stated herein, for the unit price and/or lump sum price as follows:

**BASE PRICE:** 44,330

**SALES TAX: (9.25%)** 4,108.39 **(ADD TO BASE PRICE ONLY)**

**SUB-TOTAL:** 48,438.39

**DISCOUNTS:**

**DOC FEES:** 85.00

**TIRE FEES:** 8.75

**DELIVERY:**

**PRICE:** 48,532.14 **EA**

**TOTAL COST: (2)**

Two Hundred forty two thousand, Six hundred Sixty dollars 70/100

**(Written out in numeral amount)**

$ 242,660.70

**(Numeral Amount)**

**# OF DAYS FOR DELIVERY, AFTER RECEIPT OF P.O.**

Vendor : All Star Ford

Address: 3800 Century Way City/State: Pittsburg, CA Zip: 94565

Contact Name: Lewis Kandel

Signature: Lewis Kandel Title: Fleet Manager

Telephone: (925)752-7830 Fax: (925) 752-7872

Email: LKandel@Allstarford.net

**NOTE: This Bid Worksheet must be completed and returned with all applicable attachments to the City. Any bid submitted, absent this worksheet will not be considered.**

Wheelbase 142"

## Five (5) 2022 FORD F250 REG CAB 4X2 XL SCELZI SERVICE BODY

ENGINE/TRANSMISSION – 6.2L 2 Valve Gas SOHC EFI / Torque Shift-G Six-Speed Automatic w/Select Shift Automatic – **996/44**

F2A

Equipment Group – **600A**
Power Equipment Group – **90L**
Pickup Box Delete – **66D**
Trailer Brake Controller – **52B**
Rear View Camera and Prep Kit – **872**
Upfitter Switches – **66S**
Vinyl 40/20/40 Front-Seat – **A**

COLOR - Exterior - Oxford White – **Z1**
Interior - Black/Medium Dark Slate – **AS**

MEET ALL CALIFORNIA AND FEDERAL EMISSIONS STANDARDS

WARRANTY

- 3 - Year / 36,000 Miles Bumper / Bumper
  FORD PROTECT EXTENDED CAR SERVICE PLAN
- 8 - Year / 150,000 Miles (zero deductible)

(4) Sets of Keys/Fobs

All other items considered Standard Equipment

## SERVICE BODY

- 96-98" Inches Long Service Body
- 36-38" Inches Tall
- 78-80" Inches Wide
- 15" Inches Deep Compartments with Adjustable Shelves
- Open Top Lids on Each Side with Dividers
- Cab High Perforated Headache Rack
- Over the Cab Contour Material Rack with removable Cross Bars
- Class IV Hitch
- Trailer Lights Connector 7/4 RV Style
- DOT Approved Back-Up Alarm
- All Legal Led Lighting
- Painted to Match Truck

CNGP530 VEHICLE ORDER CONFIRMATION 10/28/21 14:52:39
==> _____ _____ Dealer: F72428
2022 F-SERIES SD Page: 1 of 2
Order No: P008 Priority: E4 Ord FIN: QA464 Order Type: 5B Price Level: 240
Ord PEP: 600A Cust/Flt Name: CITY OF PITTS PO Number:

| | | RETAIL | DLR INV | | | RETAIL | DLR INV |
|---|---|---|---|---|---|---|---|
| F2A | F250 4X2 SD R/C | $35200 | $33440.00 | | JOB #1 BUILD | | |
| | 142" WHEELBASE | | | | FLEET ADV CRED | NC | (865.00) |
| Z1 | OXFORD WHITE | | | | FRT LICENSE BKT | NC | NC |
| A | VNYL 40/20/40 | | | | 10000# GVWR PKG | | |
| S | MEDIUM EARTH GR | | | 425 | 50 STATE EMISS | NC | NC |
| 600A | PREF EQUIP PKG | | | 52B | BRAKE CONTROLLR | 270 | 245.00 |
| | .XL TRIM | | | | TELE TT MIR-PWR | | |
| 572 | .AIR CONDITIONER | NC | NC | 56M | FLEET INCENTIVE | NC | (500.00) |
| | .AMFM/MP3/CLK | | | | | | |
| 996 | .6.2L EFI V8 ENG | NC | NC | TOTAL | BASE AND OPTIONS | 38035 | 34830.60 |
| 44S | 6-SPD AUTOMATIC | NC | NC | TOTAL | | 38035 | 34830.60 |
| TD8 | .LT245 BSW AS 17 | | | *THIS IS NOT AN INVOICE* | | | |
| X37 | 3.73 REG AXLE | NC | NC | | | | |
| 90L | PWR EQUIP GROUP | 915 | 832.00 | * MORE ORDER INFO NEXT PAGE * | | | |
| 66D | PU BOX DELETE | (625) | (569.00) | | F8=Next | | |

F1=Help F2=Return to Order F3/F12=Veh Ord Menu
F4=Submit F17=Delete Entry
S006 - MORE DATA IS AVAILABLE. QC06138

35,330
+ 9,000 Scelzi body

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CNGP530                    VEHICLE ORDER CONFIRMATION          10/28/21 14:53:47
==> _________ ____________________________________                Dealer: F72428
                              2022 F-SERIES SD                    Page: 2 of 2
 Order No: P008    Priority: E4  Ord FIN: QA464  Order Type: 5B Price Level: 240
 Ord PEP:  600A Cust/Flt Name: CITY OF PITTS       PO Number:
                        RETAIL   DLR INV                          RETAIL   DLR INV
 66S  UPFITTER SWTCH     $165   $150.00
 67D  200/240 AMP ALT      NC        NC
 872  RR CAM & PREP K     415    377.00
      FUEL CHARGE                 25.60
      DEST AND DELIV     1695   1695.00

TOTAL BASE AND OPTIONS 38035  34830.60
TOTAL                  38035  34830.60
*THIS IS NOT AN INVOICE*

                                                          F7=Prev
 F1=Help                F2=Return to Order                F3/F12=Veh Ord Menu
 F4=Submit    F17=Delete Entry
S099 - PRESS F4 TO SUBMIT                                          QC06138
```

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Resolution Accepting the Plans and Specifications and Authorizing Award of Project 4065, 2021/2022 CDBG ADA Curb Ramp Installation Project

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

Project 4065, 2021/2022 CDBG ADA Curb Ramp Installation Project (the "Project') is for the construction of 36 curb ramps in the neighborhoods located in the Willow Landing and Hillsdale subdivisions. Adoption of this Resolution will accept the plans and specifications for the Project and authorize the City Manager to award a construction contract to TNB Contractors Inc. of Antioch, California.

## FISCAL IMPACT

The City Council previously approved allocation of $232,508 from Community Development Block Grant (CDBG) funds. This Resolution will authorize a construction contract for a total contract amount of $176,476 and authorize the use of $44,194 as a construction contingency. A Project Budget Summary is attached to this report.

## RECOMMENDATION

City Council adopt the attached Resolution to accept the plans and specifications and authorizing the City Manager to execute a Contract for Project 4065 with TNB Contractors Inc. for a total contract amount of $176,476 for construction of the Project.

Staff recommends the City Council adopt the Resolution establishing a construction contingency of $44,194 for unanticipated costs and to construct additional ramps.

Staff further recommends that the City Engineer be authorized to approve contract change orders for the Project for a total amount not to exceed 50% of the contingency and the City Manager be authorized to approve change orders for the Project for a total amount not to exceed 100% of the contingency amount.

## BACKGROUND

On May 3, 2021, the City Council adopted Resolution 21-13927 approving the Community Development Block Grant 2021-2022 Annual Action Plan and approving the CDBG subcommittee recommendation and authorize funding the project in the amount of $232,508.

Advertising for the Project began on Wednesday, November 3, 2021. Bids for construction of the Project were opened on December 1, 2021. TNB Contractors Inc. was the lowest responsive responsible bidder with a base bid in the amount of $176,476.

## SUBCOMMITTEE FINDINGS

This item was not reviewed by a Subcommittee.

## STAFF ANALYSIS

Staff received five bid proposals for the construction of the Project. The scope of work for the Project is for construction of 36 curb ramps in the Willow Landing and Hillsdale subdivisions.

The bids received have been checked for arithmetical errors, completeness, and conformance with the bid requirements. The bid proposal submitted by TNB Contractors Inc. is responsive, competitive and the base bid is approximately one percent higher than the Engineer's estimate.

The contingency requested is higher than typical for this type of project in order to use the remaining grant funds available on the construction of additional curb ramps in authorized locations.

ATTACHMENTS: Resolution
Project Budget Summary

Report Prepared By: Andrew Peters, Assistant Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| A Resolution Accepting the Plans and Specifications and Authorizing Award of Project 4065, 2021/2022 CDBG ADA Curb Ramp Installation Project | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, Project 4065, 2021/2022 CDBG ADA Curb Ramp Installation Project (the "Project') is for construction of 36 curb ramps in the Willow Landing and Hillsdale subdivisions; and

WHEREAS, on May 3, 2021, the City Council adopted Resolution 21-13927 approving the Community Development Block Grant 2021-2022 Annual Action Plan and approving the CDBG subcommittee recommendation for funding the project in the amount of $232,508; and

WHEREAS, bids for construction of the Project were opened on December 1, 2021. TNB Contractors Inc. was the lowest responsive responsible bidder with a base bid in the amount of $176,476; and

WHEREAS, staff recommends that the City Council accept the plans and specifications for the Project; and

WHEREAS, staff recommends that the City Manager be authorized to execute a contract in the amount of $176,476 with TNB Contractors Inc. for construction of the project; and

WHEREAS, staff recommends authorizing the use of all available remaining funds as construction contingency ($44,194) for unforeseen expenses and construction of additional curb ramps as allowed within the Project budget; and

WHEREAS, staff recommends that the City Engineer or his designee be authorized to approve contract change orders for this Project for a total amount not to exceed 50% of the contingency and the City Manager be authorized to approve change orders for this Project for a total amount not to exceed 100% of the contingency amount.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby finds and determines as follows:

Section 1.
The plans and specifications for the Project are hereby accepted.

Section 2.
The City Manager is hereby authorized to execute a contract in the amount $176,476 with TNB Contractors Inc. for construction of the Project.

Section 3.
City Council authorizes the City Engineer or his designee to approve contract change orders for the Project for a total amount not to exceed 50% of the contingency and the City Manager is authorized to approve change orders for the Project for a total amount not to exceed 100% of the contingency amount.

Section 4.
The City Council authorizes the use of all available remaining funds as a contingency fund in the amount of $44,194 for unforeseen expenses, and the City Engineer or his designee is authorized to approve contract change orders up to 50% of this amount and the City Manager is authorized to approve change orders up to 100% of this amount.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

# Project Budget Summary

## Contract 2020-01, 2020/2021 CDBG ADA Curb Ramp Installation Project

Project 4065

| | | | |
|---|---|---|---|
| **Project Funding:** | 2021/2022 CDBG Grant | | $232,508 |
| | | **Funding Total** | **$232,508** |

**Project Expenditures:**

| | | | |
|---|---|---|---|
| Design: (Code 2122) | Consultant Design | | $0 |
| | | Subtotal | $0 |
| Miscellaneous: (Code 1399) | Advertising | | $638 |
| | Reproduction | | $100 |
| | Postage | | $100 |
| | | Subtotal | $838 |
| Construction: (Code 2281) | Base Bid | | $176,476.00 |
| | Construction Contingency | | $44,194.00 |
| | | Subtotal | $220,670 |
| Staff Time: (Code 1101) | Staff Costs During Design | | $1,000 |
| | Staff Costs During Construction Management | | $10,000 |
| | | Subtotal | $11,000 |

| | |
|---|---|
| **Estimated Expenditures Total** | **$232,508** |

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of an Ordinance Approving a Zoning Map Amendment for the Home2Suites Hotel Project, AP-20-1536 (GP, RZ, UP, DR)

**MEETING DATE:** December 20, 2021

## EXECUTIVE SUMMARY

On November 15, 2021, the City Council held a public hearing on a request for approval of a 115-room hotel on 2.09-acre site located at 2112 Loveridge Road in the IP (Industrial Park) district (Assessor's Parcel No. 088-240-068). After closing the public hearing, the City Council adopted Resolution No. 21-14011 approving a General Plan map amendment, use permit, and design review for the project. The City Council also introduced and waived further reading of an ordinance approving a zoning map amendment. The ordinance is now ready for City Council adoption.

## FISCAL IMPACT

One-time revenues related to construction permits and other development fees and exactions are anticipated with this project. Staff anticipates the development will result in an annual increase in transient occupancy tax (TOT) of $300,000-$400,000. This revenue would support the City's General Fund.

## RECOMMENDATION

City Council move to adopt Ordinance No. 21-14011 approving a zoning map amendment for the Home2Suites Hotel Project.

## BACKGROUND

The project site is currently within the IP (Industrial Park) district. As the current zoning does not allow for hotel uses, the applicant is requesting a rezone to the CC (Community Commercial) district, which allows for a hotel subject to use permit approval. The CC District zoning would be consistent with the Community Commercial General Plan land use designation. An overlay district is requested by the applicant to increase the allowable floor area ratio from 0.5 to 0.69 to allow for the construction of the proposed 61,617-square-foot commercial hotel.

For a more detailed discussion of the application in its entirety, the City Council may refer to the November 15, 2021, staff report included as Attachment 3 of this report.

## SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

## STAFF ANALYSIS

After the City Council holds a public hearing and introduces an ordinance on a given matter, approval of the matter is formalized by City Council adoption of the ordinance by a majority vote at a future meeting following the public hearing. The ordinance becomes effective 30 days after the date of its adoption.

## ATTACHMENTS

1. Proposed Ordinance
2. Exhibit A to Ordinance
3. November 15, 2021, City Council Staff Report (no attachments)

Report Prepared by: Jordan Davis, Director of Community and Economic Development

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Ordinance Approving a Zoning Map Amendment for a 115-Unit Hotel located at 2112 Loveridge Road, for "Home2Suites Hotel, AP-20-1536 (GP, RZ, UP, DR) | ) | ORDINANCE NO. 21-1499 |

WHEREAS, on September 29, 2020, the Shaan Ibrahim of Platinum Hospitality LLC, filed Planning Application No. 20-1536, requesting approval of: 1) a General Plan amendment from land use designation Business Commercial to Community Commercial; 2) a zoning map amendment to CC-O (Community Commercial with a Limited Overlay in order to increase the maximum allowable floor area ratio to .69; 3) a use permit to establish a 115-room hotel; and 4) design review to construct a four-story 55,506-square-foot commercial building. The project site is located at 2112 Loveridge Road; APN 088-240-068; and

WHEREAS, on January 28, 2020, a preliminary plan review application was submitted to solicit feedback from the City's Land Use Subcommittee on a potential general plan and zoning map amendment of the site to facilitate the construction of a hotel and drive-through coffee shop. On January 28, 2020, the Land Use Subcommittee met to discuss the proposal, and were supportive of the project, stating a hotel would be beneficial to Pittsburg and would help in creating a hotel and services cluster in the vicinity. Concerns were raised regarding security at the site, for the safety of the guests staying there. It was recommended that a security plan be considered, as well as meeting spaces for guests and that high quality design, aesthetics and branding be considered with the development; and

WHEREAS, the currently proposed project is governed by the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC); and

WHEREAS, pursuant to PMC section 17.16.100, an applicant may request that two or more applications for separate discretionary approvals, including zoning amendments under Title 18 of this Code, requested or required in conjunction with a project be consolidated; and

WHEREAS, Pittsburg Municipal Code ("PMC") prior to approving a zoning map amendment, the City Council must find, in accordance with PMC 18.48.030, that:

1. The change proposed is consistent with the objectives, policies, general land uses, and programs specified in the General Plan and applicable specific plan;

2. A community need is demonstrated for the change proposed; and

3. Its adoption will be in conformity with public convenience, general welfare, and good zoning practice; and

WHEREAS, the project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the State CEQA Guidelines, an Initial Study was prepared for the project. Based on the analysis in the study, the Planning Manager determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a Mitigated Negative Declaration was prepared; and

WHEREAS, on August 9, 2021, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). Public distribution of the NOI consisted of delivery to the County Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of the properties directly contiguous with the project, in accordance with CEQA Guidelines section 15072; and

WHEREAS, on October 12, 2021, the Planning Commission considered the Initial Study prepared for the project and held a public hearing on Planning Application No. AP 20-1536 (GP, RZ, UP, DR), at which time oral and/or written testimony was considered, and adopted Resolution No. 10178, recommending City Council approval of the project in its entirety; and

WHEREAS, on or prior to November 4, 2021, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020, a "Notice of Public Hearing," for the November 15, 2021 public hearing on this item was published in the East County Times; was posted at City Hall; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice. The notice was also posted on www.nextdoor.com ("Nextdoor") and was sent directly to all subscribed residents in the "Diamond Hillside", "Los Medanos", "Mosaic Apartments" and the "Ventura" neighborhoods; and,

WHEREAS, on November 15, 2021, the City Council held a public hearing on General Plan Amendment, Rezoning, Use Permit, and Design Review Application No. AP-20-1536, at which time oral and/or written testimony was considered.

NOW, THEREFORE, the City Council of the City of Pittsburg does ORDAIN as follows:

SECTION 1. Findings. Based on the Staff Report entitled, "Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Approving the Home2Suites Hotel Project, AP-20-1536 (GP, RZ, UP, DR)," dated November 15, 2021, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, in the custody of the Planning Manager, and based on all written and oral testimony presented at the meeting, the City Council finds that:

A. All recitals above are true and correct and are incorporated herein by reference.

B. The Initial Study and draft Mitigated Negative Declaration prepared for this

project were prepared in compliance with Public Resources Code section 21000 et seq (CEQA), and the City Council has independently reviewed and considered the information contained therein prior to approval of the project.

C. The requested zoning map amendment is consistent with the objectives, policies, general land uses, and programs specified in the General Plan, in that:

1. it will facilitate development on an infill site, thereby helping the City maintain a compact urban form (Goal 2-G-1) and emphasize concentrated commercial development (Goal 2-G-3);

2. it will incentive the use of vacant infill land and revitalize an underutilized site (Goal 2-G-6);

3. it will support the development and expansion of regionally-oriented commercial activities within this area (Goal 2-G-14);

4. it will allow development in an area where public facilities and infrastructure are already available (Policy 3-P-1);

5. the project will not obscure views of the hills from adjacent properties or convert public spaces to private property (Policy 4-P-3); and

6. the mitigation monitoring and reporting program includes two mitigation measure (NOI-1 and NOI-2) to address potential impacts of noise generated in the construction phase of the project. With these mitigation measures in place, noise impacts would be minimized for adjacent properties (Goal 12-G-1).

D. Furthering economic development in the City directly addresses a major community need that has been vocalized for several years. In the Land Use Subcommittee Meeting held on January 29, 2020, participants in the meeting were supportive of the development the project as a way to create a hotel and services cluster. In addition, the development would have a positive impact on the City's general fund from transient occupancy tax (TOT) collection.

E. The requested zoning map amendment will be in conformity with the public convenience, general welfare, and good zoning practice, in that it will facilitate improvement of a long-standing blighted area, which could help eradicate existing problems that come with blighted sites, such as illegal dumping and loitering.

F. The staff report entitled "Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Approving the Home2Suites Hotel Project, AP-20-1536 (GP, RZ, UP, DR)," dated November 15, 2021, is referenced hereto as additional support for the findings.

SECTION 2. Adoption of Zoning Map Amendment. Based on the findings and the authority set forth in Section 1, the City Council hereby amends the Zoning Map, as referenced in Pittsburg Municipal Code, Title 18 (Zoning Ordinance) section 18.04.020, to change the zoning for the project site from 'IP' to 'CC-O' District and adopting specific land use and development regulations as substantially presented in Exhibit A of this Ordinance; and

SECTION 3. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 4. Publication. The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on November 15, 2021, and was adopted and ordered published at a meeting of the City Council held on December 20, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

**Exhibit A to Ordinance No. 21-_____**
**Zoning Map Amendment**

**Fig. 1: Existing Zoning Designations**

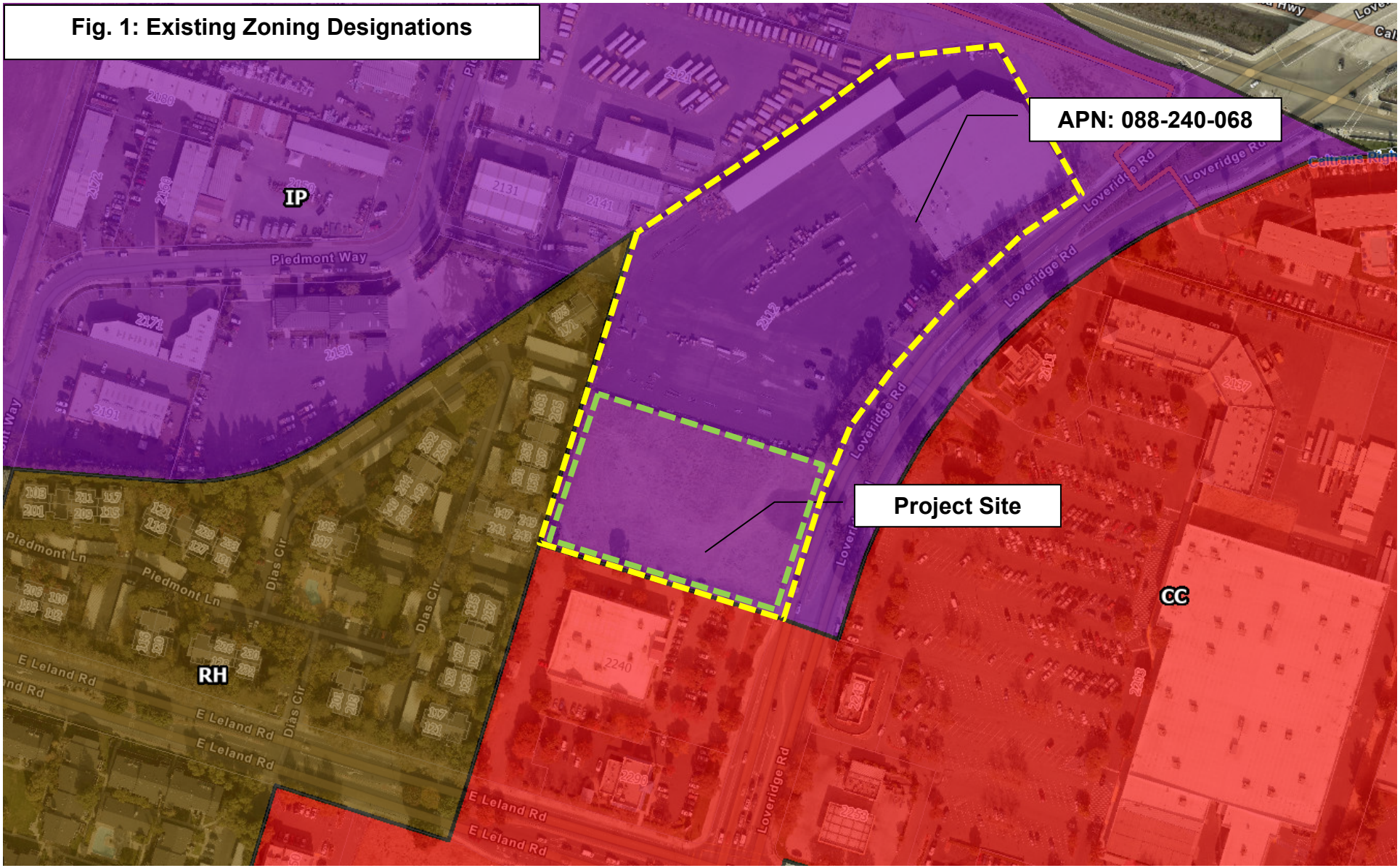
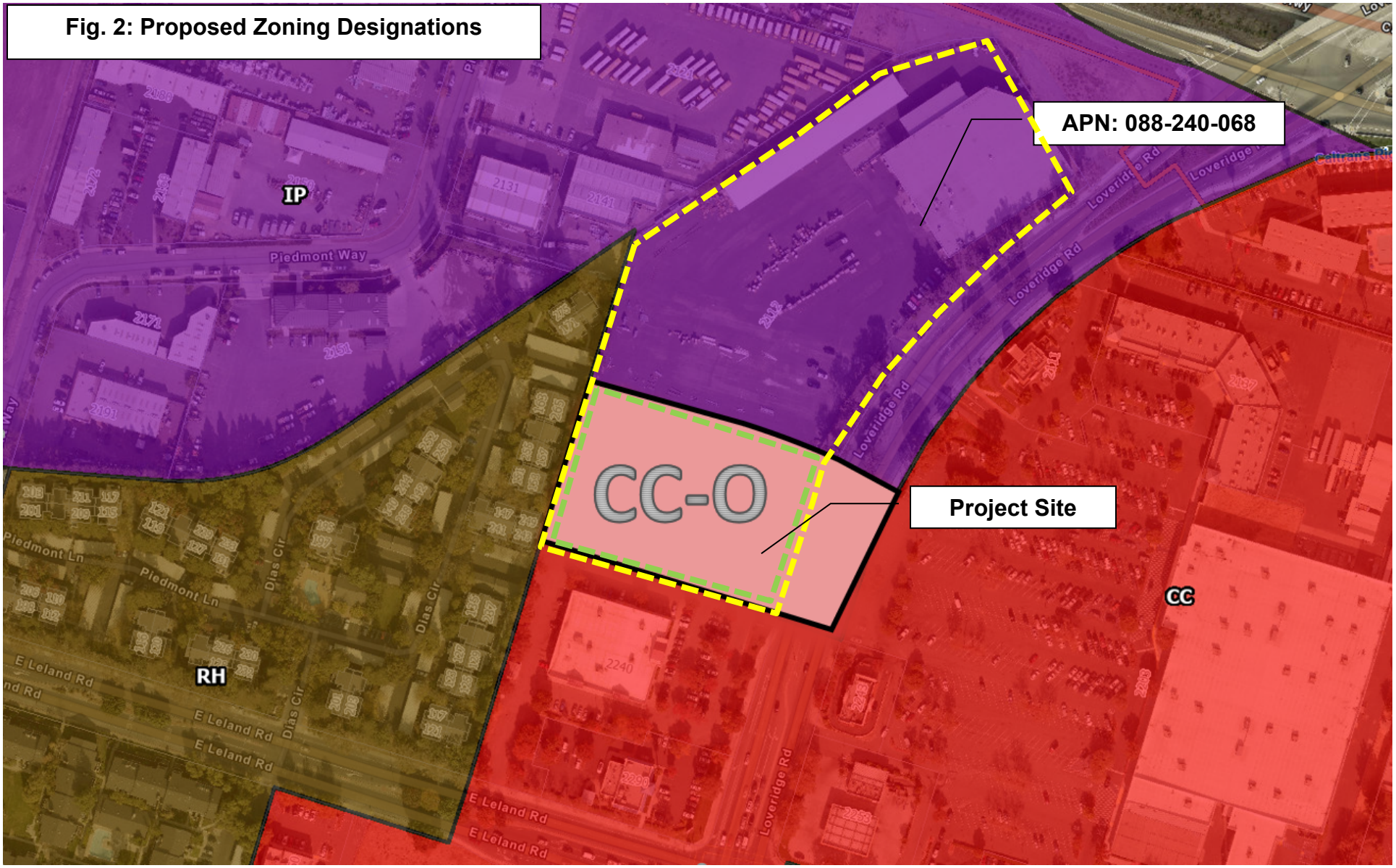


**Fig. 2: Proposed Zoning Designations**



**CC-O Regulations:**

All allowed uses and development standards shall be the same as those of the base Community Commercial (CC) District, with the exception of the allowable Floor-Area Ratio (FAR) which shall be increased from 0.5 to 0.69.

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Approving the Home2Suites Hotel Project, AP-20-1536 (GP, RZ, UP, DR)

**MEETING DATE:** November 15, 2021

## EXECUTIVE SUMMARY

This is a public hearing on a request for City Council approval of a 115-room hotel on 2.09-acre site located at 2112 Loveridge Road in the IP (Industrial Park) district. Assessor's Parcel No. 088-240-068. The requested approvals include: 1) a General Plan map amendment to change the site's land use designation to 'Community Commercial'; 2) a zoning map amendment to rezone the site to CC-O (Community Commercial with a limited Overlay in order to increase the maximum allowable floor area ratio to .69), District; 3) a use permit to establish a 115-room hotel; and 4) design review to construct a four-story 61,617 square-foot commercial building. On October 12, 2021, the Planning Commission adopted Resolution No. 10178 recommending approval of the project in its entirety.

## FISCAL IMPACT

One-time revenues related to construction permits and other development fees and exactions are anticipated with this project.

Staff anticipates the development will result in an annual increase in transient occupancy tax (TOT) of $300,000-$400,000. This revenue would support the City's General Fund.

## RECOMMENDATION

City Council open the public hearing; take public comment; close the public hearing; and take the following actions:

1. Adopt a resolution adopting a mitigated negative declaration, General Plan map amendment, use permit, and design review; and

2. Introduce, waive further reading, and pass to second reading, an ordinance approving a zoning map amendment.

Note: a condition of approval has been included making approval of the use permit and design review contingent upon City Council adoption of the ordinance approving the zoning map amendment for the project.

## BACKGROUND

On September 29, 2020, the Shaan Ibrahim of Platinum Hospitality LLC, filed Planning Application No. 20-1536, requesting approval of: 1) a General Plan amendment from land use designation Business Commercial to Community Commercial; 2) a zoning map amendment to CC-O (Community Commercial with a Limited Overlay in order to increase the maximum allowable floor area ratio (FAR) to .69; 3) a use permit to establish a 115-room hotel; and 4) design review to construct a four-story 55,506-square-foot commercial building.

On October 12, 2021, the Planning Commission held a duly noticed public hearing to consider the project in its entirety, and voted 6-0 to recommend City Council of the proposed project.

Existing Conditions: The project site is vacant 2.09-acre portion of a larger approximately 8-acre site, located along the western side of Loveridge Road, between State Route 4 and East Leland Road. The northern portion of the larger site is developed with an existing warehouse and distribution business. The project site is unimproved, with the exception of curb and gutter improvements along Loveridge Road and a shared driveway with the adjacent property to the south. It contains some ruderal vegetation and low-lying grasses, with elevations between 70-75 feet above mean sea level.

See Attachment 4 for photos of the project site.

Surrounding Land Uses:

| | |
|---|---|
| North: | Ferguson HVAC Supply, State Route 4 |
| West: | Ventana Apartments |
| South: | Planet Fitness, IHOP, East Leland Road |
| East: | Walmart, Loveridge Shopping Center |

See Attachment 5 for a map of surrounding land uses.

Proposed Project: The proposed project is to construct a four-story, 61,617-square-foot, 115 guest room hotel development. The ground floor would include 19 guest rooms, a lobby, fitness room, guest laundry and other guest amenities. The second, third and fourth floors would each contain 32 guest rooms. The upper floors of the hotel would be accessed through a set of elevators located at the eastern end of the building, where a staircase would be located as well. The hotel building would stand 52-feet, 1-inch in height, with a FAR of approximately 0.69.

The exterior building design of the hotel can be characterized as modern and sleek and would consist of a rectangular footprint with staggered walls. Building materials would include a textured exterior insulation and finish system (EIFS), cement fiber board, aluminum accent bands, a steel canopy and a tile base. A neutral palette of white, grey and brown colors would be used on the building's exterior. Hotel signage would be provided along the northern and eastern elevations of the building.

The building would sit at the center of the site with its main entry and porte cochere facing Loveridge Road. A trash enclosure is proposed at the southwest corner of the site. An outdoor pool and patio with a seating area would be located on the south side of the hotel. A drive aisle and parking area accommodating up to 120 automobiles would wrap around the hotel building. Two separate driveways are proposed for vehicular access off Loveridge Road, one of which would be a shared entry with the adjacent development to the south.

**GENERAL PLAN/CODE COMPLIANCE:**

General Plan: The project site is in the 'Loveridge' subarea of the General Plan. The project site is currently designated Business Commercial. The Business Commercial designation is intended to sites for administrative, financial, business, professional, medical, research and development, and public offices, as well as custom manufacturing, limited assembly, light manufacturing, warehousing and distribution, and support commercial uses. Although it is consistent with several General Plan goals and policies (see Attachment 6), the proposed hotel use was not envisioned under the current land use designation. However, this issue would be addressed if the City Council were to approve the proposed redesignation of the site from Business Commercial to Community Commercial. The 'Community Commercial' designation is intended to provide sites for retail shopping areas (primarily in shopping centers) containing a wide variety of businesses, including retail stores, eating and drinking establishments, commercial recreation, service stations, automobile sales and repair services, financial, business and personal services, motels, educational and social services.

Zoning: The project site is currently within the IP (Industrial Park) district. As the current zoning does not allow for hotel uses, the applicant is requesting a rezone to the CC (Community Commercial) district, which allows for a hotel subject to use permit approval. The CC District zoning would be consistent with the Community Commercial General Plan land use designation.

An overlay district is requested by the applicant to increase the allowable floor area ratio from 0.5 to 0.69 to allow for the construction of the proposed 61,617-square-foot commercial hotel.

Pursuant to Pittsburg Municipal Code section 18.48.030, the Planning Commission included written findings to support recommendations to the City Council to amend the Zoning Ordinance.

Design Guidelines: The proposed project is subject to the City's Development Review Design Guidelines (DRDG), adopted by the Planning Commission through Resolution No. 9864. As shown in Attachment 8, the project is substantially consistent with the City's DRDGs; however, condition have been added to ensure consistency with DRDG sections IV.d, IV.j, IV.m, IV.r, VI.D.1-2, and VI.D.4, which in general encourage: a) utility and downspout screening; b) properly design trash enclosures; c) cool roofs and paving that minimizes heat islands; d) and installation of electric vehicle charging stations.

Required Finding – General Plan Map Amendment: Under Government Code section 65358, the legislative body (City Council) of a local government agency may amend its general plan, in whole or in part, if it finds that the amendment would be in the public interest. No more than four general plan amendments to each required element may be adopted within one calendar year. For calendar year 2021, the City Council has adopted two amendments to the General Plan Land Use Element.

Required Findings – Zoning Map Amendment: In order to approve zoning changes, the City Council must determine, in accordance with PMC section 18.48.030, that:

A. the change proposed is consistent with the objectives, policies, general land uses and programs specified in the General Plan and applicable specific plan;

B. a community need is demonstrated for the change proposed; and

C. its adoption would be in conformity with public convenience, general welfare and good zoning practice.

Required Findings – Use Permit: In accordance with PMC section 18.16.040, a use permit may be granted only if the Planning Commission made findings that the proposed use:

A. is in accord with the objective of the Zoning Ordinance, the purposes of the land use district in which it is located and is appropriate to the specific location;

B. is not detrimental to the health, safety, and general welfare of the City;

C. will not adversely affect the orderly development of property within the City;

D. will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City;

E. is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;

F. will not create a nuisance or enforcement problem within the neighborhood;

G. will not encourage marginal development within the neighborhood;

H. will not create a demand for public services within the City beyond that of the ability of the City to meet in light of taxation and spending restraints imposed by law; and

I. is consistent with the City's approved funding priorities.

Required Findings – Design Review: In order to grant design review approval for a project, the City Council must determine, in accordance with PMC section 18.36.220.B, that:

A. the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;

B. the structure would be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;

C. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;

D. the structure is in harmony with proposed developments on land in the general area;

and

E. the application conforms with the criteria set forth in any applicable City adopted Design Guidelines.

Environmental Review: The proposed project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the State CEQA Guidelines, an Initial Study was prepared for the Project. Based on the analysis in the study, the Planning Manager determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a draft Mitigated Negative Declaration (MND) was prepared. On August 9, 2021, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). Public distribution of the NOI consisted of delivery to the County Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of the properties directly contiguous with the Project, in accordance with CEQA Guidelines section 15072. One comment letter was received prior to the close of the comment period.

Public Notice: On or prior to October 22, 2021, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020, a "Notice of Public Hearing," for the November 1, 2021, public hearing on this item was published in the East County Times; was posted at City Hall; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice. The notice was also posted on www.nextdoor.com ("Nextdoor") and was sent directly to all subscribed residents in the "Diamond Hillside", "Los Medanos", "Mosic Apartments" and the "Ventura" neighborhoods.

## SUBCOMMITTEE FINDINGS

On January 28, 2020, a preliminary plan review application was submitted to solicit feedback from the City's Land Use Subcommittee on a potential general plan and zoning map amendment of the site to facilitate the construction of a hotel and drive-through coffee shop. On January 28, 2020, the Land Use Subcommittee met to discuss the proposal, and were supportive of the project, stating a hotel would be beneficial to Pittsburg and would help in creating a hotel and services cluster in the vicinity. Concerns were raised regarding security at the site, for the safety of the guests staying there. It was recommended that a security plan be considered, as well as meeting spaces for guests and that high quality design, aesthetics and branding be considered with the development.

## STAFF ANALYSIS

Staff believes that the City Council can make the required findings to approve the proposed project. The staff recommended findings are provided as part of the proposed resolution and ordinance in Attachments 1 and 2. In particular, staff believes the proposed General Plan map amendment would be in the public interest in that the proposed land use change would facilitate the use of a vacant parcel and help the City achieve its economic development objectives, by enhancing the assessed value of the land, creating additional service sector jobs. The proposed project would also benefit the city's general fund through payment of the transient occupancy tax (TOT) which helps fund numerous items, from

public safety to economic development programs.

Staff believes the proposed amendment would be consistent with the objectives of the General Plan. The proposed project would be consistent with General Plan Land Use Element Goal 2-G-6 and 2-G-14, as it is an infill development located on an underutilized site, and would support the development of increased commercial activities in the Loveridge Subarea. Staff believes the proposed amendment would not run counter to General Plan Land Use Policy 2-P-11, as there are other vacant sites designated for Business Commercial uses in the vicinity of the proposed project.

With the closure of a nearby motel to provide supportive housing, there is a lack of lodging option for residents and visitors to the area. In 2020, Contra Costa County purchased the 174-room Motel 6 property on Loveridge Road to provide a permanent service center for the homeless population. The proposed project's location provides easy access to State Route 4, and will support existing retail and restaurant uses in the vicinity. As conditioned, the proposed project will both provide a service needed by the community, positively affect the general fund and conform with the City's design guidelines. The project would conform with good taste, good design and in general would contribute to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high-quality, in that it would both provide an attractive, modern-looking building within a highly-landscaped environment and include a variety of guest amenities such as an outdoor pool, an outdoor patio with seating and shade structures, a fitness center, work stations, and market.

The development would also enhance the visual quality of the area and increase the number of patrons within the area that naturally monitor the streetscape and one another, enhancing community safety. The proposed new hotel would have a modern and sleek appearance with a variety of materials and colors used on its exterior. It will also include guest amenities including an outdoor pool, patio and fitness center. New landscaping along the Loveridge Road frontage would also enhance the appearance of the site and would help soften the visual impact of the abutting areas.

Key conditions of approval recommended by staff in order to ensure consistency with the City-adopted design guidelines or other regulatory requirements include: 1) requiring permanent, fixed bicycle racks or lockers for a minimum of 10 bicycles; 2) a minimum of seven (7) electric vehicle (EV) spaces with EVSE installed; 3) lighting arranged in a manner to reflect away from adjoining properties; 4) measure to mitigate impacts interior noise resulting from surrounding roadways and uses; 5) cool roof measures and pre-wiring for solar photovoltaics panels; 6) an air filtration system; 7) and adherence to non-residential green building requirements. Further, the project would be required to: 1) adhere to all applicable mitigation measures identified within IS/MND; 2) pay of all applicable impact fees, including local and regional traffic mitigation fees; 3) annex the Project site into applicable CFDs (Fire and Public Safety); and 11) payment of sales taxes for construction materials to the City of Pittsburg.

**ATTACHMENTS:**

1. Proposed Resolution
    a. Exhibit A – Initial Study/Mitigated Negative Declaration
    b. Exhibit B – Mitigation Monitoring and Reporting Program
    c. Exhibit C – General Plan Map Amendment
2. Proposed Ordinance

    a. Exhibit A – Zoning Map Amendment
3. Planning Commission Resolution No. 10178 (without Exhibits A or B)
4. Project Plans
5. Map of Surrounding Uses
6. Photos of Site and Surroundings
7. Applicable General Plan Goals and Policies
8. Development Design Review Guidelines
9. Comment Received on Proposed Mitigated Negative Declaration and Initial Study
10. Public Hearing Notice

Prepared by: Jordan Davis, Director of Community and Economic Development

**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR**
**65 Civic Avenue**
**Pittsburg, CA 94565**

**TO:** Mayor/Chair and Council/Governing Board Members

**FROM:** Garrett Evans, Executive Director/City Manager

**SUBJECT:** Adoption of a Resolution Making Findings in Support of Continuing to Hold Public Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

**MEETING DATE:**

## EXECUTIVE SUMMARY

Assembly Bill 361 (AB 361) amended the Brown Act to allow cities to continue to meet remotely during proclaimed states of emergency under specified conditions. Findings must be made every 30 days.

## FISCAL IMPACT

There is no fiscal impact to the General Fund by this action.

## RECOMMENDATION

The City Council, Successor Agency Governing Board, Pittsburg Power Company Governing Board, and Housing Authority Governing Board, adopt the attached resolutions to meet in person except that members of the public shall attend by teleconference. This will remain in effect through January 19, 2022.

## BACKGROUND

Beginning in March 2020, Governor Newsom issued a series of Executive Orders aimed at containing the novel coronavirus. Among these were Executive Orders—N-25-20 and N-29-20 (collectively, the "Brown Act Orders") — that waived requirements in the Brown Act expressly or impliedly requiring the physical presence of legislative body members, staff, or the public at local agency meetings.

On June 11, 2021, the Governor issued Executive Order N-08-21, to begin winding down some of the prior measures that were adopted to respond to COVID-19. Notably, N-08-21 established an end date to the Brown Act Orders, effective September 30, 2021.

On September 16, Governor Newsom signed Assembly Bill 361 which amended the Brown Act to allow cities to continue to meet remotely during proclaimed states of emergency under specified conditions and so long as certain findings are made by a majority of the legislative body. Findings were made on November 29, 2021, and are effective through December 29, 2021.

## SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

## STAFF ANALYSIS

Cities that wish to continue meeting by teleconference must comply with the requirements of California Government Code Section 54953, which was amended by AB 361.

Specifically, newly amended Government Code Section 54953 requires the following procedures:

o Give notice and post agendas as otherwise required by the Brown Act;
o List on the agenda how the public can electronically attend and comment at the meeting. Note that a public agency is not required to offer an in-person option for the public to attend and comment at such a meeting;
o Provide an opportunity to comment in advance of and during the meeting;
o Allow a reasonable amount of time to register, if required, and comment on each agenda item or at least the amount of time allowed per agency meeting protocols, whichever is longer;
o No action may be taken during a disruption that inhibits the broadcast of the meeting or the public's ability to comment;
o All votes must be via rollcall;
o Comply with state and federal civil rights and non-discrimination laws; and
o Take all precautions to protect the statutory and constitutional rights of the public.

While it only applies in situations where the Governor has proclaimed a state of emergency, and not, for instance, when only a local health officer has declared an emergency, AB 361 provides an explicit avenue for local public agencies to meet remotely in the case of a public health, or other, emergency that inhibits the opportunity to meet in person. AB 361 provides the flexibility to meet by teleconference through December 31, 2023, unless extended.

The City Council resolution requires the City Council and Commissions to attend in person, while members of the public must attend by teleconference, and boards and commission meetings can be conducted entirely by teleconference. The remaining resolutions require the legislative body to attend in person while members of the public must attend by teleconference.

This will remain in effect through January 19, 2022.

ATTACHMENTS:
Resolutions

Report Prepared By: Garrett Evans, City Manager/Executive Director

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e) | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the City Council hereby approves meetings of boards and subcommittees to be held by teleconference, in compliance with California Government Code Section 54953(e).

BE IT FURTHER RESOLVED that the City Council and commissions shall meet in person except that members of the public shall attend and comment by teleconference.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk

BEFORE THE GOVERNING BOARD OF THE SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II

In the Matter of:

| | | |
|---|---|---|
| Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e) | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Governing Board of the Southwest Pittsburg Geologic Hazard Abatement District II hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Governing Board of the Southwest Pittsburg Geologic Hazard Abatement District II shall meet in person except that members of the public shall attend by teleconference.

PASSED AND ADOPTED by the Governing Board of the Southwest Pittsburg Geologic Hazard Abatement District II at a regular meeting on the 20th day of December, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Chair

ATTEST:

_____
Alice E. Evenson, City Clerk

BEFORE THE GOVERNING BOARD OF THE HOUSING AUTHORITY OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e) | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Housing Authority Governing Board hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Housing Authority Governing Board shall meet in person except that members of the public shall attend by teleconference.

PASSED AND ADOPTED by the Housing Authority Governing Board at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Chair

ATTEST:

Alice E. Evenson, City Clerk

BEFORE THE GOVERNING BOARD OF THE PITTSBURG ARTS AND COMMUNITY FOUNDATION

In the Matter of:

| | | |
|---|---|---|
| Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e) | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, the Pittsburg Arts and Community Foundation is a 501(c)(3) nonprofit formed for the purpose of providing assistance to the City of Pittsburg and its Bylaws provide at Article III Section 1 that meetings of the board shall be held in compliance with the Brown Act; and

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Governing Board of the Pittsburg Arts and Community Foundation hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Governing Board of the Pittsburg Arts and Community Foundation shall meet in person except that members of the public shall attend by teleconference.

PASSED AND ADOPTED by the Governing Board of the Pittsburg Arts and Community Foundation at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Chair

ATTEST:

_____
Alice E. Evenson, City Clerk

BEFORE THE PITTSBURG POWER COMPANY GOVERNING BOARD

In the Matter of:

| | | |
|---|---|---|
| Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e) | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Pittsburg Power Company Governing Board hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Pittsburg Power Company Governing Board shall meet in person except that members of the public shall attend by teleconference.

PASSED AND ADOPTED by the Pittsburg Power Company Governing Board at a regular meeting on the 20th day of December 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Chair

ATTEST:

Garrett Evans, Executive Secretary

BEFORE THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PITTSBURG

In the Matter of:

| | | |
|---|---|---|
| Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e) | ) ) ) ) | RESOLUTION NO. 21- |

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Governing Board of the Successor Agency to the Redevelopment Agency of the City of Pittsburg hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Governing Board of the Successor Agency shall meet in person except that members of the public shall attend by teleconference.

PASSED AND ADOPTED by the Governing Board of the Successor Agency to the Redevelopment Agency of the City of Pittsburg at a regular meeting on the 20th day of December, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barret White, Chair

ATTEST:

Alice E. Evenson, City Clerk