

**A REGULAR MEETING OF THE  
BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO**

TO BE HELD TELEPHONICALLY  
July 14, 2020 AT 3:00 P.M.

Zoom Meeting – Board of Commissioners will be forwarded instructions  
Members of the public may call:  
Call In Number (669) 900-6833  
Meeting ID: 896 1456 2127  
Password: 264374

This meeting is being held in accordance with the Brown Act as currently in effect under the State of Emergency Services Act, the Governor's Emergency Declaration related to COVID-19 and the Governor's Executive Order N-29-20 issued on March 17, 2020, that allows attendance by the Board of Commissioners, Housing Authority staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

Members of the public wishing to participate should call in using the teleconference information stated above. Public comments, limited to 250 words or less, can only be submitted via web at <http://ww2.hacsb.com/contact/public-comments-for-board-meetings> and/or via email at [publiccomment@hacsb.com](mailto:publiccomment@hacsb.com) and will be read into the record, limited to 3 minutes per comment. Some comments may not be read due to time limitations.

**AGENDA**

**PUBLIC SESSION**

- 1) Call to Order and Roll Call
- 2) Additions or deletions to the agenda
- 3) General Public Comment - Any member of the public may address the Board of Commissioners on any matter not on the agenda that is within the subject matter jurisdiction of the Board. To make a comment on a specific agenda item, please submit your comments via email or online by 1:00 p.m. on the Tuesday of the Board meeting. Comments should be limited to 250 words or less. Please submit your comments via web at <http://ww2.hacsb.com/contact/public-comments-for-board-meetings> and email at [publiccomment@hacsb.com](mailto:publiccomment@hacsb.com). Your comments will be placed into the record at the meeting. Efforts will be made to read the comments into the record, but some comments may not be read due to time limitations.

**DISCUSSION CALENDAR**

(Public comment is available for each item on the discussion calendar)

- 4) Receive the Executive Director's Report dated July 14, 2020. (Page 1)
- 5) Receive the board building presentations for July 14, 2020 regarding an overview of the Housing Authority of the County of San Bernardino's Annual Moving to Work Plan and Agency Budget for Fiscal Year 2020-2021. (Page 2)
- 6) 1. Adopt Resolution No. 87:
  - a. Approving the Housing Authority of the County of San Bernardino's Annual Moving to Work Plan for Fiscal Year 2020-2021.
  - b. Approving the Annual Moving to Work Plan Certification of Compliance to the United States Department of Housing and Urban Development. (Pages 3-10)
- 7) 1. Adopt Resolution No. 88 to approve and adopt:
  - a. The Fiscal Year 2020-21 Consolidated Annual Budget including operating transfers in/out.
  - b. The Fiscal Year 2020-21 Public Housing Annual Budget including operating transfers in/out.
  - c. Any changes to the Consolidated Annual Budget or the Public Housing Annual Budget that the Board of Commissioners may direct. (Pages 11-17)
- 8) Adopt Resolution No. 89 approving revisions to the Administrative Plan governing the Housing Authority of the County of San Bernardino's rental assistance programs. (Pages 18-89)
- 9) Adopt Resolution No. 90 approving revisions to the Admissions and Continued Occupancy Plan governing the Housing Authority of the County of San Bernardino's Public Housing program. (Pages 90-103)
- 10) Adopt Resolution No. 91 approving revisions to the Housing Authority of the County of San Bernardino's Employee Personnel Handbook. (Pages 104–130)
- 11) 1. Approve a data use agreement, effective August 1, 2020, between the Housing Authority of the County of San Bernardino, Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., and Brilliant Corners for permanent supportive housing development, Desert Haven Apartments, for a five-year term through July 31, 2025.
  2. Authorize and direct the Executive Director to execute and deliver the agreement to Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., and Brilliant Corners and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 131-151)
- 12) 1. Approve a data use agreement, retroactive to June 1, 2020, between the Housing Authority of the County of San Bernardino, Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., and Brilliant Corners for permanent supportive housing development, Golden Apartments, for a five-year term through May 31, 2025.
  2. Authorize and direct the Executive Director to execute and deliver the agreement to Inland Empire Health Plan, San Bernardino County Department of Behavioral Health,

Mental Health Systems, Inc., Step Up on Second Street, Inc., and Brilliant Corners and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 152-172)

- 13) Approve an increase in appropriations for heating, ventilation, and air conditioning services by \$300,000 for a total amount not to exceed \$764,740 through January 24, 2022. (Pages 173-174)
- 14)
  1. Approve contract addendums to Contract No. PC938, with Sillman Wright Architects, Onyx Architects, Inc., Pyatok Architects, and BASIS Architecture & Consulting, for on-call architect services, exercising the option to extend one additional two-year term from August 1, 2020 through July 31, 2022.
  2. Approve an increase in appropriations for on-call architect services by \$500,000 for an overall amount not to exceed \$1,085,000 through July 31, 2022.
  3. Authorize and direct the Executive Director to execute and deliver the contract addendums to Sillman Wright Architects, Onyx Architects, Inc., Pyatok Architects, and BASIS Architecture & Consulting and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 175 - 180)
- 15)
  1. Approve Amendment No. 1 to Contract No. PC947, with Vizion's West, Inc. and Unlimited Environmental, Inc. for environmental abatement services, exercising the option to extend one additional two-year term from July 24, 2020 through July 23, 2022.
  2. Approve an increase in appropriations for environmental abatement services by \$250,000 for an overall amount not to exceed \$450,000 through July 23, 2022.
  3. Authorize and direct the Executive Director to execute and deliver the contract amendments to Vizion's West, Inc. and Unlimited Environmental, Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 181- 198)
- 16)
  1. Approve Amendment No.1 to Contract No. PC1111 with Noble E&C Inc. for interior plumbing re-pipe services at the Parkside Pines Affordable Housing community increasing the total contract amount by \$64,263, from \$472,600 to a not-to-exceed \$536,863 and extending the contract through August 31, 2020.
  2. Authorize and direct the Executive Director to execute and deliver the contract amendment to Noble E&C Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 199-202)

## **CONSENT CALENDAR**

- 17) APPROVAL OF CONSENT ITEMS: # 18-20
- 18) Approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on June 9, 2020. (Pages 203-210)
- 19) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month ending in May 2020. (Pages 211-217)

- 20) Approve and file Agency-wide Financial Statements through March 2020. (Pages 218-220)
- 21) Individual Board member Comments
- 22) Adjourn

This agenda contains a brief description of each item of business to be considered at the meeting. In accordance with the Ralph M. Brown Act, this meeting agenda is posted at least 72 hours prior to the regularly scheduled meeting at the Housing Authority of the County of San Bernardino (HACSB) Building located at 715 East Brier Drive, San Bernardino, California, 92408. The agenda and its supporting documents can be viewed online at <http://www.hacsb.com>. However, the online agenda may not include all available supporting documents or the most current version of documents.

If you challenge any decision regarding any of the above proposal in court, you may be limited to raising only those issues you or someone else raised during the public testimony period regarding that proposal or in written correspondence delivered to the Board of Commissioners at, or prior to, the public hearing.

It is the intention of the HACSB to comply with the Americans with Disabilities Act (ADA). If you require special assistance, HACSB will attempt to accommodate you in every reasonable manner. Please contact Sylvia Robles at (909) 890-6318 at least 48 hours prior to the meeting to inform us of your particular needs.

HACSB ofrece asistencia idiomática gratis. Para ayuda con este documento, por favor llámenos al (909) 890-0644.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**July 14, 2020**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Executive Director's Report for July 14, 2020

**RECOMMENDATION(S)**

Receive the Executive Director's Report dated July 14, 2020.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**GOALS & OBJECTIVES**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

**BACKGROUND INFORMATION**

The Executive Director's report summarizes ongoing initiatives of HACSB's strategic plan, Moving to Work activities, overall agency updates, as well as other initiatives federally regulated by the United States Department of Housing and Urban Development. The focus of this month's report is HACSB's response to the COVID-19 global pandemic.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**July 14, 2020**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Board Building Presentation for July 14, 2020

**RECOMMENDATION(S)**

Receive the board building presentations for July 14, 2020 regarding an overview of the Housing Authority of the County of San Bernardino's Annual Moving to Work Plan and Agency Budget for Fiscal Year 2020-2021.

(Presenter: Maria Razo, Executive Director, 332-6305)

**GOALS & OBJECTIVES**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

**BACKGROUND INFORMATION**

Per the United States Department of Housing and Urban Development's (HUD) Commissioner Lead the Way Training, a requirement for all Board of Commissioners (Board), board building is required to provide the Board with information regarding ongoing initiatives of HACSB's strategic plan, Moving to Work activities, overall agency updates, as well as other initiatives federally regulated by HUD.

This month's board building presentations will include an overview of HACSB's Annual Moving to Work Plan and Agency Budget for Fiscal Year 2020-2021.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**July 14, 2020**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

**Fiscal Year 2020-2021 Annual Moving to Work Plan**

**RECOMMENDATION(S)**

1. Adopt Resolution No. 87:
  - a. Approving the Housing Authority of the County of San Bernardino's Annual Moving to Work Plan for Fiscal Year 2020-2021.
  - b. Approving the Annual Moving to Work Plan Certification of Compliance to the United States Department of Housing and Urban Development.

(Presenter: Maria Razo, Executive Director, 332-6305)

**GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.**

**HACSB clients live in safe and desirable homes and communities where they can develop and prosper.**

**FINANCIAL IMPACT**

Approval of the proposed resolution will not have a significant financial impact on the Housing Authority of the County of San Bernardino (HACSB). Sufficient appropriation to perform this action has been included in the HACSB 2020-21 annual budget.

**BACKGROUND INFORMATION**

On March 14, 2008, HACSB was designated by the United States Department of Housing and Urban Development (HUD) as a Moving to Work (MTW) agency. The objectives of the MTW program are to achieve greater cost effectiveness, provide incentives to families working toward self-sufficiency, and increase housing choices for low-income families. To accomplish these objectives, the MTW designation allows Public Housing Agencies (PHA) to develop and implement programs to design and test innovative local housing and self-sufficiency initiatives by waiving certain statutes and HUD regulations. In accordance with the MTW Agreement, each year HACSB is required to prepare and submit a MTW Annual Plan that describes proposed MTW activities for the coming year.

The proposed 2020-2021 Annual MTW Plan (Plan) includes information regarding 27 previously approved MTW activities and one proposed new activity. "Activities" are defined as HUD-approved initiatives adopted by HACSB that a traditional Housing Authority cannot implement. HACSB MTW activities are listed below:

<b>No.</b>	<b>Activity Name</b>	<b>Plan Year</b>	<b>Status</b>
1	Single Fund Budget	2009	Ongoing

2	Strategic Investment Policies	2009	Closed Out
3	Alternate Assessment Program	2009	On Hold
4	Biennial and Triennial Re-Certifications	2009	Ongoing
5	Simplified Income Determination (formerly Local Verification Policies)	2009	Ongoing
6	Elimination of Assets	2009	Closed Out
7	Controlled Program Moves	2009	Closed Out
8	Local Policies for Portability	2009	Ongoing
9	Elimination of Earned Income Disallowance	2009	Closed Out
10	Minimum Rent	2009	Ongoing
11	Local Project Based Voucher Program	2009	Ongoing
12	Local Payment Standards	2009	Ongoing
13	Local Inspection Policies	2010	Ongoing
14	Local Asset Management Program	2010	Ongoing
15	Pilot Work Requirement	2010	Closed Out
16	Operating Subsidy for Vista del Sol	2010	Closed Out
17	Local Income Inclusions	2011	Closed Out
18	Property Management Innovation	2011	Ongoing
19	Pilot Local FSS Program	2011	Ongoing
20	Term-Limited Lease Assistance Program	2011	Ongoing
21	Utility Allowance Reform	2012	Closed Out
22	Streamlined Lease Assistance Program	2013	Ongoing
23	No Child Left Unsheltered	2014	Ongoing
24	Transition for Over Income Public Housing/Housing Choice Voucher Families	2014	Ongoing
25	Project-Based Voucher Flexibility for Horizons Yucaipa Senior Housing	2016	Ongoing
26	Local Disaster Short-Term Rental Assistance Program	2017	Ongoing
27	Local Project-Based Voucher Subsidy for Developments Using Tax Credit Rents	2019	Ongoing
28	Moving On	2021	Proposed

The Plan includes the proposed new activity #28 – Moving On. The activity addresses the statutory objective to increase housing choices for low-income families. The Moving On activity will permit families currently served through the San Bernardino County Continuum of Care (CoC) program administered by HACSB (formerly the Shelter Plus Care program) to voluntarily transition into HACSB's tenant-based voucher program. Families will be evaluated for readiness to transition from the COC program, which includes supportive services provided by the San Bernardino County Department of Behavioral Health (DBH), into tenant-based MTW housing assistance without those services. This activity will allow HACSB to ensure housing stability while also providing families the opportunity to take their next step toward housing independence. Additionally, HACSB will be able to serve new chronically homeless families in need of the supportive services and housing assistance offered through the CoC program as families voluntarily transition into the tenant-based MTW voucher program.



The Plan also includes the following changes to existing MTW activities.

Activity 18 - Property Management Innovation: The proposed modification will revise the benchmark goal for savings related to unit turnover costs from \$11 per unit to \$45 per unit to reflect actual increased costs due to Rental Assistance Demonstration (RAD) conversion of former Public Housing sites.

Activity 19 – Local Family Self-Sufficiency (FSS) Program: This modification is a significant change and is included in Section III of the Plan. The proposed modification will revise the escrow/savings calculation for participants of the Local FSS Program through a pilot program called Local FSS and Achievement Program. The revised program will allow families to accrue savings based on achievement of certain self-sufficiency milestones, such as completion of an educational program or attaining full-time employment. Families will be eligible to graduate from the Local FSS and Achievement Program upon completion of their FSS contract and reaching certain self-sufficiency goals. This revised activity will allow participants of HACSB's rent reform activities, including Term-Limited Lease Assistance and Streamlined Lease Assistance, to participate in HACSB's Local FSS program. Implementation of the modified activity is not anticipated to take place before 2022 and will be based upon further analysis.

Activity 20 – Term-Limited Lease Assistance (TLA): At implementation of the proposed Local FSS and Achievement Program, new TLA families will be automatically enrolled into the proposed Local FSS and Achievement Program (not to exceed the maximum size of the pilot Local FSS and Achievement Program). This change will permit TLA families, who are anticipated to be on a similar trajectory to and receive similar services as FSS families, to benefit from the potential to earn savings as they work toward self-sufficiency and complete milestone goals.

Activity 23 – No Child Left Unsheltered (NCLU): The proposed modification will allow NCLU families to be admitted either through a HACSB wait list with a preference or as a special admission referral without entering a HACSB wait list. Currently, families may be admitted only from the waiting list through a preference for eligible families.

Activity 27 - Local Project-Based Voucher Subsidy for Developments Using Tax Credit Rents: The proposed modification will add a minimum income requirement to the activity to ensure that families are not rent-burdened at the time of admission. Rent-burdened is defined as paying more than 40% of gross income toward rent.

The HUD-required Certifications of Compliance with Regulations: Board Resolution to Accompany the Annual Moving to Work Plan is included in the 2020-21 Annual MTW Plan as Appendix A. The Certifications of Compliance authorizes HACSB to submit the Annual MTW Plan to HUD and certifies that HACSB has complied or will comply with requirements related to the submission and implementation of the Plan, including public notice requirements, Civil Rights Act and Fair Housing Act requirements, records retention, and other requirements.

A legal notice regarding the Plan was published in seven local newspapers between May 21 and May 22, 2020. The notice and the proposed plan were also made available on HACSB's website and at all HACSB offices throughout San Bernardino County beginning May 22, 2020. The required public comment period ran from May 22, 2020, to June 22, 2020, and two public hearings on the matter were held on June 10, 2020, at 10:00 a.m. and June 18, 2020, at 2:00 p.m. virtually

via Zoom. No members of the public attended the public hearings. A comment from the public was received by email recommending that HACSB modify its policies to adopt an admissions preference for survivors of domestic violence, dating violence, sexual assault, and stalking. The comment urged HACSB to consider uses of MTW flexibility to provide more rapid access to housing and improve survivor outcomes for this population.

A complete copy of the 2020-21 Annual MTW Plan can be found at <http://www.hacsb.com/news-reports/mtw-plans-reports-factsheets>.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 24, 2020

**HOUSING AUTHORITY RESOLUTION NO. 2020-87**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO APPROVING THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO'S ANNUAL MOVING TO WORK PLAN FOR FISCAL YEAR 2020-2021**

**RECITALS**

**WHEREAS**, the Housing Authority of the County of San Bernardino (HACSB) entered into a Moving to Work (MTW) contract with the United States Department of Housing and Urban Development (HUD) effective March 14, 2008, which governs the regulations of the administration of the Housing Choice Voucher and Public Housing programs; and

**WHEREAS**, as a MTW agency the HACSB is required to and has prepared an Annual MTW Plan which describes its operations and activities as an MTW agency; and

**WHEREAS**, the HACSB desires to modify certain previously approved MTW activities; and

**WHEREAS**, the HACSB has developed its Fiscal Year 2020-21 Annual MTW Plan, to include the proposed modifications to those MTW activities and in accordance with HUD requirements.

**OPERATIVE PROVISIONS**

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:**

Section 1. The Board of Commissioners finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board of Commissioners hereby approves the proposed Fiscal Year 2020-21 HACSB Annual MTW Plan, effective July 14, 2020.

Section 3. A complete copy of the 2020-21 Annual MTW Plan can be found at <http://www.hacsb.com/news-reports/mtw-plans-reports-factsheets>.

Section 4. The Board of Commissioners hereby approves the HUD-required Certifications of Compliance with Regulations form authorizing HACSB to submit the proposed Fiscal Year 2020-21 Annual MTW Plan to HUD and certifies that HACSB has complied or will comply with requirements related to the submission and implementation of the Plan.

Section 5. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES: COMMISSIONER:

NOES: COMMISSIONER:

ABSENT: COMMISSIONER:

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SAN BERNARDINO        )       ss.

I, \_\_\_\_\_, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Secretary

## CERTIFICATIONS OF COMPLIANCE

### **U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF PUBLIC AND INDIAN HOUSING**

#### **Certifications of Compliance with Regulations: Board Resolution to Accompany the Annual Moving to Work Plan**

Acting on behalf of the Board of Commissioners of the Moving to Work Public Housing Agency (MTW PHA) listed below, as its Chairman or other authorized MTW PHA official if there is no Board of Commissioners, I approve the submission of the Annual Moving to Work Plan for the MTW PHA Plan Year beginning 10/01/2020, hereinafter referred to as "the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

- (1) The MTW PHA published a notice that a hearing would be held, that the Plan and all information relevant to the public hearing was available for public inspection for at least 30 days, that there were no less than 15 days between the public hearing and the approval of the Plan by the Board of Commissioners, and that the MTW PHA conducted a public hearing to discuss the Plan and invited public comment.
- (2) The MTW PHA took into consideration public and resident comments (including those of its Resident Advisory Board or Boards) before approval of the Plan by the Board of Commissioners or Board of Directors in order to incorporate any public comments into the Annual MTW Plan.
- (3) The MTW PHA certifies that the Board of Directors has reviewed and approved the budget for the Capital Fund Program grants contained in the Capital Fund Program Annual Statement/Performance and Evaluation Report, form HUD-50075.1 (or successor form as required by HUD).
- (4) The MTW PHA will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
- (5) The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
- (6) The Plan contains a certification by the appropriate state or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the MTW PHA's jurisdiction and a description of the manner in which the Plan is consistent with the applicable Consolidated Plan.
- (7) The MTW PHA will affirmatively further fair housing by fulfilling the requirements at 24 CFR 903.7(o) and 24 CFR 903.15(d), which means that it will take meaningful actions to further the goals identified in the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR 5.150 through 5.180, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR 903.7(o)(3). Until such time as the MTW PHA is required to submit an AFH, and that AFH has been accepted by HUD, the MTW PHA will address impediments to fair housing choice identified in the Analysis of Impediments to fair housing choice associated with any applicable Consolidated or Annual Action Plan under 24 CFR Part 91.
- (8) The MTW PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
- (9) In accordance with 24 CFR 5.105(a)(2), HUD's Equal Access Rule, the MTW PHA will not make a determination of eligibility for housing based on sexual orientation, gender identify, or marital status and will make no inquiries concerning the gender identification or sexual orientation of an applicant for or occupant of HUD-assisted housing.
- (10) The MTW PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
- (11) The MTW PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
- (12) The MTW PHA will comply with requirements with regard to a drug free workplace required by 24 CFR Part 24, Subpart F.
- (13) The MTW PHA will comply with requirements with regard to compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms if required by this Part, and with restrictions on payments to influence Federal Transactions, in accordance with the Byrd Amendment and implementing regulations at 49 CFR Part 24.

- (14) The MTW PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
- (15) The MTW PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
- (16) The MTW PHA will provide HUD or the responsible entity any documentation needed to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58. Regardless of who acts as the responsible entity, the MTW PHA will maintain documentation that verifies compliance with environmental requirements pursuant to 24 Part 58 and 24 CFR Part 50 and will make this documentation available to HUD upon its request.
- (17) With respect to public housing and applicable local, non-traditional development the MTW PHA will comply with Davis-Bacon or HUD determined wage rate requirements under section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
- (18) The MTW PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
- (19) The MTW PHA will comply with the Lead-Based Paint Poisoning Prevention Act and 24 CFR Part 35.
- (20) The MTW PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments) and 24 CFR Part 200.
- (21) The MTW PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the Moving to Work Agreement and Statement of Authorizations and included in its Plan.
- (22) All attachments to the Plan have been and will continue to be available at all times and all locations that the Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the MTW PHA in its Plan and will continue to be made available at least at the primary business office of the MTW PHA.

\_\_\_\_\_  
**MTW PHA NAME**

\_\_\_\_\_  
**MTW PHA NUMBER/HA CODE**

*I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).*

\_\_\_\_\_  
**NAME OF AUTHORIZED OFFICIAL**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**DATE**

**\* Must be signed by either the Chairman or Secretary of the Board of the MTW PHA's legislative body. This certification cannot be signed by an employee unless authorized by the MTW PHA Board to do so. If this document is not signed by the Chairman or Secretary, documentation such as the by-laws or authorizing board resolution must accompany this certification.**

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**July 14, 2020**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Fiscal Year 2020-21 Consolidated Annual Budget**

## **RECOMMENDATION(S)**

1. Adopt Resolution No. 88 to approve and adopt:
  - a. The Fiscal Year 2020-21 Consolidated Annual Budget including operating transfers in/out.
  - b. The Fiscal Year 2020-21 Public Housing Annual Budget including operating transfers in/out.
  - c. Any changes to the Consolidated Annual Budget or the Public Housing Annual Budget that the Board of Commissioners may direct.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

## **BACKGROUND INFORMATION**

The Fiscal Year (FY) 2020-2021 budget of the Housing Authority of the County of San Bernardino (HACSB) is recommended for approval. This proposed budget continues to support the vision and mission of the agency and is in line with its 30-year Strategic Plan and Moving to Work (MTW) Annual Plans as approved by the United States Department of Housing and Urban Development (HUD). Despite anticipated shortage of funding to the Housing Choice Voucher (HCV) due to increases in housing assistance payment costs across all rental assistance programs, and decreases in rental income, we are recommending for approval a balanced budget.

## **FINANCIAL IMPACT**

The chart below summarizes the HACSB Consolidated Budget for the Fiscal Year 2020-2021 (October 1, 2020 - September 30, 2021) into two major funding sources:

1. MTW Block Grant sources including Public Housing Operating Funds; Public Housing Capital Funds; HCV Housing Assistance Payments; and HCV Administrative Fees.
2. Non-eligible MTW Block Grant funds including local and central office cost center funds, other non-MTW special purpose voucher programs (Continuum of Care, Veterans Affairs Supportive Housing, and Housing for Persons with AIDS), the Authority Owned Portfolio and the Project-Based Voucher Rental Assistance Demonstration (RAD) properties.

**Fiscal Year 2020-21 Consolidated Annual Budget**  
**July 14, 2020**

**Housing Authority of the County of San Bernardino**  
**FY 2020-2021 Proposed Consolidated Budget**

Moving To Work				
Program	Revenue	Expenses	Net	
MTW Fund	\$ 177,360	\$ 951,366	\$	(774,006)
Public Housing	747,394	1,220,342		(472,948)
Capital Funds	8,997,290	8,524,342		472,948
Housing Choice Vouchers	106,031,347	105,257,341		774,006
<b>Total Moving To Work</b>	<b>\$ 115,953,391</b>	<b>\$ 115,953,391</b>	<b>\$</b>	<b>(0)</b>
Other Programs - Non Moving To Work				
Program	Revenue	Expenses	Net	
Central Office	\$ 4,020,008	\$ 4,247,160	\$	(227,152)
Other Vouchers	10,041,918	10,487,533		(445,616)
Authority Owned Portfolio	24,849,570	25,457,537		(607,967)
Local Funds	6,165,717	6,384,010		(218,293)
<b>Total Non-Moving To Work</b>	<b>\$ 45,077,213</b>	<b>\$ 46,576,240</b>	<b>\$</b>	<b>(1,499,027)</b>
<b>Grand Totals</b>	<b>\$ 161,030,604</b>	<b>\$ 162,529,631</b>	<b>\$</b>	<b>(1,499,027)</b>
HUD-Held Reserve Drawdown				-
VASH Reserve Drawdown				258,831
Reserve Drawdown/< Buildup>-Other:				1,240,196
<b>Adjusted Residual Profit:</b>				<b>-</b>

Approximately 78% of the total revenue are funds received from HUD to administer the HCV, Public Housing and the Capital Fund programs. The remaining revenue is derived primarily from rental income from the Public Housing, Project-Based Voucher RAD, and Authority Owned portfolios.

**DESCRIPTION OF MAJOR CHANGES IN 2020-2021:**

Total income has increased by over \$5.5 million and total expenses increased by \$6.3 million for a decrease of \$744,000 in net income. The most significant changes occurred in the MTW HCV program.

**MTW PROGRAMS**

The primary increase in revenue is due to increased funding in HCV. Unfortunately, significant increases in the per unit cost expenses are outpacing the funding received from HUD. From April 2019 to April 2020 we experienced an 8.8% increase in the HAP per unit cost (from \$753 to \$818 per unit). We expect the per unit cost to increase by an additional 4% in April 2020 to an average of \$841 in FY 2021. Historically, the HAP annual inflation factor, does not provide sufficient funding to cover the increasing costs; unfortunately, receiving an annual inflation factor by HUD is not guaranteed, which if not, will exacerbate the loss in funding.



**Fiscal Year 2020-21 Consolidated Annual Budget**  
**July 14, 2020**

Also, as a result of working with HUD on a revision to our administrative fee funding methodology, there is an increase in administrative fee revenue. This funding increase is being offset because six additional positions are being hired in the Housing Services Department which include an Administrative Services Supervisor, a Portability Specialist, three Housing Service Specialists, and a Training and Development Specialist. Currently, there is a hiring freeze on three of these positions as a cost saving measure due to the funding reduction to the voucher program.

Unfortunately, due to the HCV funding challenges, we anticipate that we will decrease our voucher program lease rate down to 95% to avoid drawing down from our HUD held restricted MTW HAP reserves. We are projecting having 1.7 months of HUD held restricted MTW HAP reserves at the beginning of the FY 2021, and we recommend maintaining these levels in the event that higher than expected proration levels occur in the voucher program. The proposed budget anticipates a \$1 million reduction in funding to the HCV program. Overall, the FY 2021 HUD budget outlook is uncertain given the increase in federal spending as a result of the COVID-19 health pandemic.

In addition, pension costs and other postemployment benefits (OPEB) continue to rise along with an expected increase in medical benefits, all totaling an increased budget cost of \$155,000.

**NON-MTW PROGRAMS**

The non-MTW program budgets are expected to have a drawdown of \$1.24 million in reserves as a result of needed maintenance repairs to housing sites, funding gaps, and increases in per unit costs. Below are the rounded breakdowns of how the \$1.24 million will be allocated for the various program needs:

- \$608,000 will cover part of the \$5.1 million in anticipated extraordinary maintenance expenses needed for repair and replacement work at all Authority Owned housing developments. This maintenance work is being primarily funded by operational income.
- \$187,000 will cover the expected net loss in the Continuum of Care grant programs due to increases in the per unit costs.
- \$445,000 will cover gap in funding in both the Central Office and the Local Funds due to a reclassification of interest income from the Central Office to our MTW fund. There was also a recalculation of the Residual Receipt Agreement with our affiliate non-profit Housing Partners I, Inc. that reduced the income in our Local Funds. The reclassification of interest income and recalculation of the Residual Receipts were necessary in order to better reflect the related agreements.

In addition to the \$1.24 million reserve drawdown, an additional \$259,000 are being drawdown from the specific Veterans Affairs Supportive Housing (VASH) program reserves to also cover the increases in per unit costs.

The budget does not include any changes to staffing for the non-MTW programs; however, there is an overall increase in salaries, taxes and benefits of \$889,000, mostly attributed to the increase in positions in the Housing Services department along with increases to CalPERS pension, retiree medical and medical premiums.

We have budgeted an expected \$1.2 million decrease in rental income compared to the current FY 2020 budget, this is attributed to two factors: the conclusion of the Arrowhead Commons

**Fiscal Year 2020-21 Consolidated Annual Budget**  
**July 14, 2020**

master lease along with a timing difference in the RAD conversion of the Los Olivos Public Housing development.

**CONCLUSION:**

It is important to note that despite anticipated funding cuts to the HCV program, increases in HAP costs and decreases in rental income, we are proposing a balanced budget which includes the following:

- Funding for all families on HACSB's rental assistance programs to continue receiving housing assistance, with the exception of families exiting the Term-Limited Lease Assistance program.
- Funding for repair and replacement capital needs for our Authority Owned developments, our Project-Based Voucher RAD housing developments and Administrative buildings.
- Funding for our Career Development Initiatives department to continue to achieve positive outcomes that result in career-abled families prospering and transitioning through the agency's Term-Limited Lease Assistance and Family Self-Sufficiency programs.
- Maintenance of adequate reserve levels within our MTW and non-MTW programs.

Being that we have prepared this budget in the spring of 2020 through the COVID-19 health pandemic, we expect to see additional changes that will impact the agency's finances, and accordingly will plan to bring a mid-year budget revision to the Board of Commissioners (Board) for recommended approval.

We will continue our advocacy efforts to ensure that our elected officials are well aware of the impacts that funding cuts and increased program costs are having on our agency, but most importantly on the families that we serve. Simultaneously, as good stewards of taxpayer dollars, we will continue to be prudent in our spending.

Adoption of the Fiscal Year 2020-2021 agency wide budget as shown is recommended. Monthly updates will continue to be provided to the Board and at least one budget revision is expected upon approval of the FY 2021 federal budget.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.

**HOUSING AUTHORITY RESOLUTION NO. 2020-88**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO APPROVING THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO'S FISCAL YEAR 2020-21 CONSOLIDATED ANNUAL BUDGET**

**RECITALS**

**WHEREAS**, the Housing Authority of the County of San Bernardino was created pursuant to Section 34200 of the California Health and Safety Code to provide housing for low and moderate income families; and

**WHEREAS**, the Housing Authority of the County of San Bernardino administers a variety of local, State and Federal Programs in pursuit of its mission; and

**WHEREAS**, the Housing Authority of the County of San Bernardino operates the Public Housing, Housing Choice Voucher, and related programs authorized by the United States Department of Housing and Urban Development (HUD); and

**WHEREAS**, the attached as Exhibit A is the Consolidated Annual Budget, including the Public Housing Annual Budget, that has been prepared in accordance with and is consistent with all applicable laws and guidelines;

**OPERATIVE PROVISIONS**

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:**

Section 1. The Board of Commissioners finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board of Commissioners hereby approves the proposed Fiscal Year 2020-21 Consolidated Annual Budget including the Public Housing Annual Budget attached as Exhibit A.

Section 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES: COMMISSIONER:

NOES: COMMISSIONER:

ABSENT: COMMISSIONER:

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SAN BERNARDINO        )       ss.

I, \_\_\_\_\_, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Secretary

## FY 2020-2021 Consolidated Annual Budget

	Moving to Work					Other Programs - Non Moving to Work					HACSB
	MTW Fund	Affordable Housing	Capital Funds	Housing Services	Total	Central Office	Other Vouchers	Authority Owned	Local Funds	Total	Total
<b>INCOME</b>											
Grants	-	246,557	8,997,290	97,273,430	106,517,277	-	9,228,806	-	5,016,000	14,244,806	120,762,083
Administrative Fees	-	-	-	8,639,917	8,639,917	4,020,008	813,112	-	-	4,833,120	13,473,037
Rental Income	-	488,621	-	-	488,621	-	-	24,785,794	-	24,785,794	25,274,415
Repayment Agreement Income	-	-	-	-	-	-	-	-	-	-	-
Investment Income	-	-	-	-	-	-	-	-	-	-	-
Residual Receipt/Partnership Contribution	-	-	-	-	-	-	-	-	839,517	839,517	839,517
Interest Income	177,360	-	-	-	177,360	-	-	-	96,000	96,000	273,360
Miscellaneous Income	-	12,216	-	118,000	130,216	-	-	63,776	214,200	277,976	408,192
<b>TOTAL INCOME</b>	<b>177,360</b>	<b>747,394</b>	<b>8,997,290</b>	<b>106,031,347</b>	<b>115,953,391</b>	<b>4,020,008</b>	<b>10,041,918</b>	<b>24,849,570</b>	<b>6,165,717</b>	<b>45,077,213</b>	<b>161,030,604</b>
<b>EXPENSES</b>											
Administrative Salaries	590,300	200,042	-	5,177,586	5,967,927	3,283,903	-	4,444,875	1,037,327	8,766,104	14,734,032
Administrative Expenses	240,645	298,270	-	3,270,134	3,809,049	747,060	718,859	2,667,948	449,142	4,583,009	8,392,058
Total Tenant Services	111,900	47,004	-	-	158,904	-	-	345,348	15,000	360,348	519,252
Total Grant Specific Expenses	-	-	8,524,342	-	8,524,342	-	-	-	4,800,000	4,800,000	13,324,342
Utilities	-	52,016	-	105,508	157,524	49,430	-	3,612,245	6,750	3,668,425	3,825,949
O & M Labor Costs	-	120,399	-	-	120,399	-	-	2,415,291	-	2,415,291	2,535,690
O&M Materials	-	35,506	-	-	35,506	6,100	-	973,859	500	980,459	1,015,965
O&M Contracts	1,252	157,902	-	723,187	882,341	70,555	-	3,412,745	35,580	3,518,880	4,401,221
General Expenses	7,269	31,415	-	97,402	136,086	54,370	-	935,237	15,710	1,005,318	1,141,404
Debt Service Interest	-	-	-	-	-	-	-	1,525,172	-	1,525,172	1,525,172
Extraordinary Maintenance	-	277,788	-	6,400	284,188	35,742	-	5,124,817	24,000	5,184,559	5,468,747
Depreciation	-	-	-	-	-	-	-	-	-	-	-
Housing Assistance Payments	-	-	-	95,877,124	95,877,124	-	9,768,674	-	-	9,768,674	105,645,798
<b>TOTAL EXPENSES</b>	<b>951,366</b>	<b>1,220,342</b>	<b>8,524,342</b>	<b>105,257,341</b>	<b>115,953,391</b>	<b>4,247,160</b>	<b>10,487,533</b>	<b>25,457,537</b>	<b>6,384,010</b>	<b>46,576,240</b>	<b>162,529,631</b>
<b>RESIDUAL RECEIPTS/(DEF)</b>	<b>(774,006)</b>	<b>(472,948)</b>	<b>472,948</b>	<b>774,006</b>	<b>(0)</b>	<b>(227,152)</b>	<b>(445,616)</b>	<b>(607,967)</b>	<b>(218,293)</b>	<b>(1,499,027)</b>	<b>(1,499,027)</b>
Operating Transfer In - Subsidy	115,157,194	719,505	8,524,342	105,139,341	229,540,382	-	-	-	-	-	229,540,382
Operating Transfer Out - Subsidy	(114,383,188)	(246,557)	(8,997,290)	(105,913,347)	(229,540,382)	-	-	-	-	-	(229,540,382)
VASH Reserve Drawdown	-	-	-	-	-	-	258,831	-	-	258,831	258,831
Reserve Drawdown/(Buildup) - MTW (RESTRICTED)	-	-	-	-	-	-	-	-	-	-	-
Reserve Drawdown/(Buildup) - Non MTW	-	-	-	-	-	227,152	186,784	607,967	218,293	1,240,196	1,240,196
<b>Net Income/(Loss)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

Housing Authority of the County of San Bernardino  
Fiscal Year 20-21 Annual Budget

# FY 2020-2021 Public Housing Annual Budget

	UHA 204142	AMP 205	AMP 206	Affordable Housing AMP 207	AMP 208	AMP 209	Total
<b>INCOME</b>							
Grants	224,148				22,409	-	246,557
Administrative Fees					-	-	-
Rental Income	481,932				6,689	-	488,621
Repayment Agreement Income	-				-	-	-
Investment Income	-				-	-	-
Residual Receipt/Partnership Contribu	-				-	-	-
Interest Income	-				-	-	-
Miscellaneous Income	12,216				-	-	12,216
<b>TOTAL INCOME</b>	<b>718,296</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>29,098</b>	<b>-</b>	<b>747,394</b>
<b>EXPENSES</b>							
Administrative Salaries	200,042				-	-	200,042
Administrative Expenses	295,763				2,508	-	298,270
Total Tenant Services	47,004				-	-	47,004
Total Grant Specific Expenses	-				-	-	-
Utilities	50,364				1,652	-	52,016
O & M Labor Costs	120,399				-	-	120,399
O&M Materials	34,356				1,150	-	35,506
O&M Contracts	152,202				5,700	-	157,902
General Expenses	30,614				801	-	31,415
Debt Service Interest	-				-	-	-
Extraordinary Maintenance	277,788				-	-	277,788
Depreciation	-	-	-	-	-	-	-
Housing Assistance Payments	-	-	-	-	-	-	-
<b>TOTAL EXPENSES</b>	<b>1,208,532</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>11,811</b>	<b>-</b>	<b>1,220,342</b>
<b>RESIDUAL RECEIPTS/(DEF)</b>	<b>(490,236)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>17,287</b>	<b>-</b>	<b>(472,948)</b>
Operating Transfer In - Subsidy	714,384	-	-	-	5,122	-	719,505
Operating Transfer Out - Subsidy	(224,148)	-	-	-	(22,409)	-	(246,557)
<b>Net Income/(Loss)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

**REPORT/RECOMMENDATION TO THE SAN BERNARDINO COUNTY BOARD OF  
COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN  
BERNARDINO AND RECORD OF ACTION**

July 14, 2020

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Revisions to the Administrative Plan Governing the Housing Authority of the County of San Bernardino's Rental Assistance Programs

**RECOMMENDATION(S)**

Adopt Resolution No. 89 approving revisions to the Administrative Plan governing the Housing Authority of the County of San Bernardino's rental assistance programs.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**HACSB communication is open, honest and consistent.**

**HACSB clients, programs, and properties are embraced by all communities.**

**HACSB clients live in safe and desirable homes and communities where they can develop and prosper.**

**FINANCIAL IMPACT**

Approval of the proposed revisions to the Administrative Plan will have no direct financial impact to the Housing Authority of the County of San Bernardino's (HACSB) annual budget.

**BACKGROUND INFORMATION**

HACSB's Housing Choice Voucher (HCV) Administrative Plan outlines the adopted policies that govern the HCV program as well as other HACSB rental assistance programs. These programs provide rental subsidies for low-income families leasing homes in the private rental market. The Administrative Plan is required of all housing authorities administering a HCV program and is reviewed and updated as needed to maintain compliance with Public and Indian Housing Notices (PIH), Federal Register Notices as issued by the United States Department of Housing and Urban Development (HUD), and HACSB's Moving to Work (MTW) activities.

The primary reasons for updating the Administrative Plan at this time is to implement Mainstream Voucher Program waiting list preferences, the Local Project-Based Voucher Subsidy for Tax Credit Developments, and emergency operations under COVID-19. In addition, HACSB took this opportunity to do a thorough review of the Administrative Plan to update and clarify various sections to maintain compliance with HUD requirements and promote the consistent application of policies. Attached is a table summarizing the proposed revisions along with the corresponding pages from the Administrative Plan with the redline changes.

To ensure alignment with HUD regulations and HACSB's Moving to Work Annual Plan, it is recommended the Board of Commissioners adopt the resolution to approve the proposed changes to the Administrative Plan.

Revisions to the Administrative Plan Governing the Housing Authority of the County of San Bernardino's Rental Assistance Programs.

July 14, 2020

**PROCUREMENT**

Not applicable

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 25, 2020.

**HOUSING AUTHORITY RESOLUTION NO. 2020-89**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE  
COUNTY OF SAN BERNARDINO APPROVING REVISIONS TO THE ADMINISTRATIVE PLAN  
GOVERNING THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO'S RENTAL  
ASSISTANCE PROGRAMS**

**RECITALS**

**WHEREAS**, the Housing Authority of the County of San Bernardino (HACSB) is required to maintain an Administrative Plan which outlines regulations necessary to administer the Housing Choice Voucher subsidized programs on behalf of the United States Department of Housing and Urban Development (HUD); and

**WHEREAS**, HUD requires public housing agencies to amend their Administrative Plan to incorporate changes and define policy relative to administration of the Housing Choice Voucher subsidized programs; and

**WHEREAS**, HACSB desires to amend its policies and procedures as they relate to Mainstream Voucher Program waiting list preferences, the Local Project-Based Voucher Subsidy for Tax Credit Developments, emergency operations under COVID-19, and update language in other sections.

**OPERATIVE PROVISIONS**

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY  
OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:**

Section 1. The Board of Commissioners finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board of Commissioners hereby approves the revisions to the Administrative Plan governing the Housing Authority of the County of San Bernardino's rental assistance programs, attached hereto as Exhibit "A" and incorporated by reference herein.

Section 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES: COMMISSIONER:

NOES: COMMISSIONER:

ABSENT: COMMISSIONER:

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SAN BERNARDINO        )       ss.

I, \_\_\_\_\_, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, \_\_\_\_\_, 20\_\_.



\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Deputy

## Housing Authority of the County of San Bernardino

### Housing Services Program Administrative Plan

Revised: ~~March~~July 2020

continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

To administer the Housing Services program, the Housing Authority enters into a contractual relationship with HUD. The Housing Authority also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit. For the program to work and be successful, all parties involved – HUD, the Housing Authority, 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 parties execute to participate in the program.

#### 1.5.2 Housing Services Program Types

The Housing Authority administers ~~ten~~eleven distinct types of Housing Services programs. All of the types, except for Term-Limited Lease Assistance, may be either tenant-based or project-based. Term-Limited Lease Assistance is only available in the tenant-based program.

- **Term-Limited Lease Assistance** – Participants in the Term-Limited Lease Assistance program execute a Family Obligations Agreement (FOA) with the Housing Authority.<sup>1</sup> Each participant receives five years of housing assistance as long as they remain compliant with the FOA and continue to remain eligible for the program. This program became effective for all new non-elderly/non-disabled, tenant-based participants on January 1, 2012, including the former Upland Housing Authority waiting list applicants who are pulled on or after July 1, 2017, and all port-in families, families exercising mobility through the Project-Based Voucher program, and non-legacy families in Rental Assistance Demonstration (RAD) units exercising mobility who are briefed on or after November 1, 2017.
- **Streamlined Fixed Lease Assistance for Elderly/Disabled Families** – Elderly/Disabled families who become participants after November 1, 2014 or were existing participants admitted to the program prior to November 1, 2014 and who have a recertification effective date of February 1, 2015 or later<sup>2</sup> will participate in the Streamlined Fixed Lease Assistance program.<sup>3</sup> This also applies to the former

<sup>1</sup> The FY 2011 Moving to Work Annual Plan included Activity 20: Term-Limited Lease Assistance program.

<sup>2</sup> The recertification process for families with a February 1, 2015 or later effective date will be commenced in November, 2014.

<sup>3</sup> The FY 2013 Moving to Work Annual Plan included Activity 22: Streamlined Lease Assistance programs. The Streamlined Fixed Lease Assistance program serves elderly/disabled families and the Streamlined Tiered Lease Assistance program serves Career Focused Families. The Transitional Assistance for MTW Families results from the

# Housing Authority of the County of San Bernardino

## Housing Services Program Administrative Plan

Revised: ~~March~~July 2020

Upland Housing Authority (UHA) elderly/disabled families as a result of the voluntary transfer on July 1, 2017 with a recertification date of January 1, 2018 or later; future Plan references to Streamlined Fixed Lease Assistance families will also apply to these former UHA families. Each participant family has their income calculated based on gross income and receives no allowances or deductions. Rent is determined based on a set percentage of income throughout participation in the program.

- **Streamlined Tiered Lease Assistance for Career-Focused Families** – Existing participants who received assistance prior to January 1, 2012 and are not elderly/disabled households but who have a recertification effective date of February 1, 2015 or later are part of the Streamlined Tiered Lease Assistance for Career Focused Families program. This also applies to the former Upland Housing Authority (UHA) career focused families as a result of the voluntary transfer on July 1, 2017 with a recertification date of January 1, 2018 or later; future Plan references to Streamlined Tiered Lease Assistance families will also apply to these former UHA families. Each participant family has their income calculated on gross income and receives no allowances or deductions. Rent is determined based on an increasing percentage of income at each recertification.
- **Streamlined Fixed Lease Assistance for Career-Focused Families** – All non-elderly and non-disabled families admitted under the project-based voucher program and sponsor-based project-based voucher program after January 1, 2017, will participate in the Streamlined Fixed Lease Assistance for Career-Focused Families program.
- **Veteran's Affairs Supportive Housing (VASH)** – Assists homeless veterans with severe psychiatric or substance abuse disorders. The Housing Authority and Veterans Administration Medical Center have partnered to provide rental voucher and supportive services to eligible veterans. Except as otherwise specified in this document, the policies for HACSB's Moving to Work program shall apply to this program.
- **Local Disaster Short-Term Rental Assistance Program** – Assistance through this program will be limited to families displaced as the direct result of a local disaster. A local disaster is an event that occurs within the County of San Bernardino and may include a natural disaster, an act of terrorism, or other event as determined by the Housing Authority. The qualification of a local disaster shall

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creation of this program to transition families who were on the program prior to the implementation of the Streamlined Programs into the applicable Streamlined Lease Assistance program.

# Housing Authority of the County of San Bernardino

## Housing Services Program Administrative Plan

Revised: ~~March~~July 2020

be declared by the Housing Authority through its governing board. The income and rental subsidy for this program shall align with the Streamlined Lease Assistance program methodologies. Except as otherwise specified in this policy, the policies for HACSB's Housing Choice Voucher Program shall apply to this program.

- **Family Unification** - The Family Unification Program (FUP) is administered in partnership with the San Bernardino County Department of Children and Family Services (DCS). Tenant-Based Voucher (TBV) rental assistance is provided to families for which the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child, or children, to the family from out-of-home care. Applications from residents of San Bernardino County are referred through DCS. The income and rental subsidy for this program shall align with the Streamlined Lease Assistance program methodologies. Except as otherwise specified in this policy, the policies for HACSB's Housing Choice Voucher Program shall apply to this program.
- **Mainstream Vouchers (formally Mainstream 5 and Mainstream 811) - Provides rental assistance for a family containing a member who is a person with disabilities between the ages of 18 – 61 to enable the family to rent suitable and accessible housing in the private market. Effective October 1, 2020, Mainstream 5 participants will transition to the Streamlined Lease Assistance for Elderly and Disabled at recertification.**
- **Transitional Assistance for MTW Families** – Existing participants who are not Term-Limited Lease Assistance program participants, and who have a recertification effective date prior to February 1, 2015 will participate in the Transitional Assistance for MTW Families program until their next recertification, at which time they will transition to the Streamlined Lease Assistance program that they are determined to be eligible for. These participants are subject to HACSB rules that were implemented for MTW families. These specific rules will be noted in each Administrative Plan chapter. Each of these families will transition to the applicable Streamlined Assistance program at their next regularly scheduled recertification.
- **Traditional, Regulatory Assistance for Special Purpose Programs** – Certain HUD programs are not eligible for inclusion in the Moving to Work Demonstration. These programs are administered in accordance with federal regulations and the specific criteria established by the special purpose program. HACSB's MTW Agreement and MTW Plans do not apply to any of these program types. These programs include:

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- ~~○ **Mainstream Five** – Provides rental assistance for persons with disabilities to enable them to rent suitable and accessible housing in the private market.~~
- **Continuum of Care** – Provides rental assistance for hard to serve homeless persons with disabilities in connection with supportive services funded from sources outside the program.
- **Housing Opportunities for People with AIDS (HOPWA)** – HACSB has partnered with the Foothill AIDS Project to offer rental assistance and supportive services to persons with HIV or AIDS.
- **Master Leasing Program** – Funded by the State of California Mental Health, this program serves mentally ill or developmentally disabled families in a group home setting. Case management and comprehensive support services are provided for participants of this program.
- **Family Self-Sufficiency** – The Family Self-Sufficiency (FSS) program enables families to increase their earned income and eliminate their dependency on public assistance and housing subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling and other forms of social service assistance while receiving housing assistance. The income and housing subsidy for this program shall align with the Traditional, Regulatory Assistance programs methodologies. Except as otherwise specified in this policy, the policies for HACSB's Housing Choice Voucher Program shall apply to this program.

### 1.6 Rules and Regulations

This Administrative Plan is set forth to define the Housing Authority's local policies for operation of the housing programs in the context of Federal laws and regulations. All issues related to the Housing Services program not addressed in this document are governed by the HACSB's MTW Agreement, MTW Plans, federal regulations, HUD memos, notices and guidelines, state and local laws, and other applicable laws. Applicable regulations include:

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

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At the initial point of contact with each applicant, the Housing Authority shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork. To meet the needs of persons with hearing or speech impairments, the Housing Authority utilizes the national 711 telecommunications relay service.

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 HACSB staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpreters; 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.

### **1.10 Interpretation and Document Translation of Documents**

The Housing Authority acknowledges the importance of serving Limited English Proficiency (LEP) persons and adopted a Language Access Plan to ensure its programs and services are accessible to persons with LEP. In accordance with Federal guidelines, the Housing Authority will make reasonable efforts as appropriate and in consideration of cost and availability of resources to provide language assistance for its LEP participants, applicants, and/or persons eligible for Housing Authority programs. The Housing Authority employs bilingual staff and utilizes telephonic language interpretation services. A copy of the Language Access Plan is located on the agency's website at [www.hacsb.com](http://www.hacsb.com) or can be requested by calling any Housing Authority Office.

### **1.11 Management Assessment**

The Housing Authority operates its housing assistance program with efficiency and utilizes all resources in a manner that reflects its commitment to quality and service. In order to demonstrate compliance with HUD and other pertinent regulations, the Housing Authority will maintain records, reports, and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional, or other interested party to follow, monitor, and/or assess the agency's operational procedures objectively and with accuracy.

Due to the standardized format of HUD's Section Eight Management Assessment Program (SEMAP), and the lack of a successor system for Moving to Work Agencies, the

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families who appear to qualify for such programs. The Housing Authority will continue to pull families from the waiting list based on lottery order but may schedule initial eligibility interviews based on the program type for which the family is most likely to qualify.

The Housing Authority may also target waiting list pulls in order to meet HUD requirements to serve the same comparable mix of families that it was serving prior to its participation in the Moving to Work demonstration.

As part of the voluntary transfer of the Housing Choice Voucher program from the Upland Housing Authority (UHA) to HACSB on July 1, 2017, the applicants on the UHA waiting list will be transferred to HACSB's waiting lists. Applicants on the waiting list for the UHA Housing Choice Voucher program have been placed onto the HACSB tenant-based voucher waiting list effective January 1, 2018. The UHA applicants have been proportionately interspersed with HACSB applicants to ensure equitable distribution of HACSB and UHA applicants.

### **2.1.2 Project-Based Assistance**

The Housing Authority administers a site-based waiting list for each senior project-based community and a mixture of site-based and region-based waiting lists for other communities. Families are placed on the project-based waiting lists based on time and date. Certain project-based communities are designated for families where the head of household, spouse or cohead is sixty-two (62) years of age or older. Families that do not meet this age criteria are not eligible for the senior project-based communities.

Some project-based communities are designated for No Child Left Unsheltered<sup>5</sup> or other homeless and special need populations and provide supportive services to residents. For these communities, the Housing Authority only accepts referrals to the waiting list from designated partners.

### **2.1.3 Special & Targeted Program Admissions [24CFR982.204(e) & 24CFR982.203]**

The Housing Authority administers numerous special purpose programs funded by HUD or approved by HUD and selects families for participation in those programs based on the specific requirements of the program.

#### **2.1.3.1 ~~Targeted~~Special Purpose Program Admissions**

~~When funding is available, the waiting list will be searched for the first available family who meets the program criteria for the special program. Changes in applicant~~

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<sup>5</sup> The FY 2014 Moving to Work Annual Plan included Activity 23: No Child Left Unsheltered.



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~~circumstances while on the waiting list may affect the family's eligibility for a targeted program admission. Applicants may notify HACSB in writing when their circumstances change. Special purpose funding or Moving to Work activities with specific eligibility criteria may be implemented by the Housing Authority. Such housing assistance funding shall be for the individuals and families indicated in the federal, State or local requirements, rules, and regulations for each program. In some cases, use of the tenant-based waiting list is required or a separate waiting list must be established.~~

### 2.1.3.1.1 Mainstream Program

Families will be selected from the general tenant-based voucher wait list based on their eligibility for the Mainstream program, wait list position (application sequence or lottery number), and applicable local preferences. Families may apply for assistance (by applying directly to the wait list or through a referral from a partner agency) at any time when the tenant-based voucher wait list is open. If the general tenant-based voucher wait list is closed and does not have enough applicants to fill the available funding, the Housing Authority may open the wait list only to applicants who qualify for the Mainstream ~~Disability Voucher assistance Program.~~

### 2.1.3.1.2 Referral Based Special Purpose Programs

Other special purpose programs are referral based and families may be admitted outside of the waiting lists. A referral based special purpose program may be either a tenant-based or project-based program. ~~Families are admitted through special admissions processes for certain programs~~Subject to available funding, families are admitted through referrals from designated partners on a first come, first served basis for certain programs, including, but not limited to:

- Continuum of Care (formerly known as Shelter Plus Care)
- Housing Opportunities for People With AIDS (HOPWA)
- Veteran's Affairs Supportive Housing (VASH)
- ~~No Child Left Unsheltered (NCLU)~~
- ~~Sponsor-Based Project-Based Voucher programs that include referrals from a contracted supportive service partner and address special need and/or homeless populations~~
- ~~Local Disaster Short-Term Rental Assistance Program<sup>6</sup>~~
- Family Unification Program (FUP)

<sup>6</sup>~~The FY 2017 Moving to Work Annual Plan, Amendment 1, included Activity 26: Local Disaster Short-Term Rental Assistance Program.~~



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### 2.1.3.1.2 Moving to Work Activities

The following HUD approved Moving To Work activities are non-waiting list special admissions:

- Local Disaster Short-Term Rental Assistance Program<sup>7</sup>

### 2.1.3.2 HUD Special Admissions (Non-Waiting List) [24 CFR 982.203]

The Housing Authority may admit certain types of families outside of the waiting list process. These families do not have to qualify for any preference, are not required to be on the program waiting list and are not required to be referred by an outside entity. The Housing Authority will maintain separate records of these admissions. The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses, or demolishes the project;
- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
- A family residing in a project covered by a project-based contract at or near the end of the contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- ~~• As a part of a HUD approved MTW activity/program~~
- ~~• Participants that have utilized the Veterans Affairs Supportive Housing (VASH), Continuum of Care, or Housing Opportunities for People with Aids (HOPWA) for a 3 year term and that no longer require supportive services and are eligible to transition to a regular Housing Choice Voucher provided they meet all other eligibility requirements. Verification from the supportive services provider stating that supportive services are no longer needed is required.~~
- ~~• Young adults (18-21) who are participating in the Department of Children and Family Services Foster Care Aftercare Program, for a term of up to three years through No Child Left Unsheltered.~~
- ~~• No Child Left Unsheltered Families, admitted on or after October 1, 2019, will transition to the Streamline Lease Assistance (elderly/disabled) or the Term-~~

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<sup>7</sup> The FY 2017 Moving to Work Annual Plan, Amendment 1, included Activity 26: Local Disaster Short-Term Rental Assistance Program.

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~~Limited Lease Assistance Program (career-abled families) at the conclusion of the initial two-year period.~~

- ~~• Families referred by HUD as part of a witness relocation program.~~

~~The Housing Authority may also provide assistance to the following types of families who were not on the waiting list:~~

- ~~• Displaced HACSB public housing residents~~
- ~~• Displaced participants from other housing authorities~~
- ~~• Disaster victims who are non-participants in any housing services programs at any housing authority~~
  - ~~○ Families displaced as a result of federally declared disasters may receive preference over waiting list placeholders.~~

### **2.1.4 Portability Vouchers from Other Public Housing Authorities**

Under portability, families from other housing authorities may become participants in HACSB's Housing Services program. Families who port in from other housing authorities do not apply for the waiting list.

### **2.1.5 Transfers from Other HACSB Programs**

In order to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities, the Housing Authority may relocate a family that is a current participant in any HACSB subsidized housing programs, including but not limited to: Affordable Housing Program or Housing Services program, with a disabled head of household or family member, to another HACSB housing program. Examples include:

- There are no affordable housing units to accommodate the family's household size based on occupancy standards
- There are no ADA/504 units available to accommodate the family's needs (i.e., customized wheelchair exceeds normal dimensions, other specialized equipment needs, etc.)
- There are no affordable units/communities that meet a medically necessary restriction or requirement
- There is a significant, identified barrier to that participant in the private market to finding and securing stable private sector housing that meets their disability needs, including but not limited to ADA compliant and mobility accessible units.

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to each application. The number of applicants selected for the list will be based on the number of families required to achieve a waiting list adequate to cover the next three (3) to five (5) years.

### 2.2.5.1 Local Disaster Short-Term Rental Assistance Program

The Housing Authority will determine prioritization of placement for eligible families on the wait list for this program based on the nature of the locally declared disaster. Criteria for determining prioritization may include, but are not limited to: the availability of funds to support the issuance of vouchers under this program, targeting to extremely low-income and very low-income families, and other circumstances related to the displacement of the family.

### 2.2.5.2 Family Unification Program

The Housing Authority will ~~determine prioritization of placement for eligible families on the wait list for this program based on the order of referral from DCS. Criteria for determining prioritization may include, but is not limited to the availability of funds to support the issuance of vouchers under this program.~~ compare the list of Department of Child & Family Services (DCS) referrals to the tenant-based voucher wait list to determine if any names in the DCS referral list are already on the wait list. Any names in the DCS referral list that match the wait list will maintain the order of their position on the wait list. Any referrals that are not already on the wait list must be added to the wait list by order of referral. The Housing Authority may open the wait list only to accept DCS referrals.

### 2.2.6 Change in Applicant Circumstances

Applicants are required to inform the Housing Authority in writing of changes in address. Applicants are also required to respond to requests from the Housing Authority to update information on their pre-application and to determine their continued interest in assistance.

### 2.2.7 Removal from the Waiting List and Purging [24 CFR 982.204]

The Housing Authority may request each applicant to respond to a request for current information and/or confirmation of continued interest to ensure that the waiting list is current and accurate. The Housing Authority is authorized to remove the names of applicants who do not respond to requests for information or periodic updates. An applicant who fails to respond to a Housing Authority mailing within the time frame indicated will be removed from the waiting list without further notice. An extension may be considered as a reasonable accommodation if requested in advance by a person with

### **2.2.8 Selection from the Waiting List [24 CFR 982.204]**

When funding is available, families will be selected from the waiting list in their determined sequence, regardless of family size, subject to income targeting and comparable mix under the Moving to Work demonstration requirements. When there is insufficient funding available for the applicant at the top of the list, the Housing Authority will not admit any other applicant until funding is available for the first applicant.

Based on the Housing Authority's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility "pool."

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

In accordance with the Housing Authority's Moving To Work Agreement, each fiscal year the Housing Authority will reserve a minimum of seventy-five percent (75%) of its Housing Services program new admissions for families whose income does not exceed fifty percent (50%) of the area median income. HUD refers to these families as "very low-income families." The Housing Authority will admit families who qualify under the very low-income limit to meet the income targeting requirement, regardless of preference.

HUD may award HACSB funding for a specified category of families on the waiting list. HACSB must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, HACSB may skip families on the waiting list 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 2.2.8. Selection from the Waiting List [24 CFR 982.204].

The Housing Authority's targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act. The Housing Authority is also exempted from this requirement where the Housing Authority is providing assistance to low or moderate income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out.

#### **2.2.8.2 Comparable Mix [Moving to Work Standard Agreement]**

The Housing Authority may also target families on the waiting list in order to meet the terms of its Moving to Work Agreement with HUD. The Housing Authority is required to, "maintain a comparable mix of families by family size, as would have been served or assisted had the amounts not been used under the demonstration."

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### 2.2.8.3 Wait List Preferences

HACSB will select applicants from the waiting list using the local admission preferences described in the following sections.

#### 2.2.8.3.1 Veteran Preference

As required by California Health and Safety Code (§34322.2), HACSB will give priority to families of veterans and servicemen within each preference category.

#### 2.2.8.3.2 ~~Disabled At-Risk~~ Mainstream Program Preference

HACSB will give a limited preference to non-elderly persons with disabilities who are transitioning out of institutional or other segregated settings, at serious risk of institutionalization, homeless, or at risk of becoming homeless, or persons who previously experienced homelessness and are currently a participant in a permanent supportive housing or rapid rehousing program. The definitions stated in the 2019 Mainstream Notice of Funding Availability (NOFA) are used for the ~~Disabled At-Risk~~ Mainstream Program preference. The preference is limited to ten (10) Mainstream vouchers or Mainstream turn-over vouchers per calendar year, whichever is less.

~~Homeless is defined as lacking a fixed or regular nighttime residence, and either 1) having a primary nighttime residence that is a supervised publically or privately-operated shelter designed to provide temporary living accommodation, or 2) residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.~~

~~At risk of becoming homeless is defined as being in receipt of a judgement for eviction, as ordered by the court.~~

#### 2.2.8.3.3 Other Preferences

Applications or referrals from designated partners received under “other preferences” described below will be assisted on a first come, first served basis and receive the highest priority on the wait list. Under these categories, applications and/or referrals may be accepted to the wait list for the tenant-based voucher program regardless of whether the Housing Authority wait list is open or closed, subject to available funding:

- A family participating in a Continuum of Care (CoC) program administered by the Housing Authority when CoC funding is not renewed;
- Participants that have utilized the Veterans Affairs Supportive Housing (VASH), Continuum of Care (CoC), or Housing Opportunities for People with Aids

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(HOPWA) for a 3 year term, no longer require supportive services and are eligible to transition to the voucher program provided they meet all other eligibility requirements. Verification from the supportive services provider stating that supportive services are no longer needed is required;

- No Child Left Unsheltered (NCLU) Families described below;<sup>8</sup>
- Families referred by HUD as part of a witness relocation program; or
- Families who are involuntarily displaced as described below.

### 2.2.8.3.3.1 No Child Left Unsheltered (NCLU)

Under NCLU, the Housing Authority assists unsheltered families with children and young adults participating in the Department of Children and Family Services Foster Care Aftercare Program.

Families with children must be unsheltered at time of application, but do not otherwise qualify as chronically homeless under the HUD definition, but who:

- Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 90 days immediately preceding the date of application for homeless assistance; and
- Have experienced persistent instability as measured by two moves or more during the six-month period immediately preceding the date of applying for homeless assistance; and
- Can be expected to continue in such status for an extended period of time because of chronic disability, chronic physical health or mental health conditions, substance use disorder, history of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or
- Two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

For young adults participating in the Aftercare program, applicants must be between the ages of 18-21 and in need of housing support to transition to stable independent living. To be eligible for housing support through this component of NCLU, the household must:

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<sup>8</sup> The FY 2014 MTW Plan, Activity 23: No Child Left Unsheltered, set aside 40 tenant-based or project-based vouchers for the program. The FY 2018 MTW Plan modified the activity to add 20 tenant-based vouchers specifically for families participating in the Aftercare program. The FY 2019 MTW Plan modified the activity to add that the NCLU families are transitioned to the TLA or SLA activity after two years of participation for those admitted after October 1, 2019.



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- Be referred by San Bernardino County Department of Children and Family Services;
- Be a low-income family as defined by HUD;
- Meet HACSB's criminal history background screening requirements; and
- Be an active participant in the Aftercare program.

HACSB has partnered with a variety of local community service providers, including the school system, to identify and refer families, particularly those with school-age children, who are unsheltered. Service coordination for NCLU families is provided by the Department of Behavioral Health.

### 2.2.8.3.3.2 Involuntary Displacement

The Housing Authority may also provide assistance to the following types of families who are not on the waiting list:

- Displaced HACSB public housing residents
- Displaced participants from other housing authorities
- Disaster victims who are non-participants in any housing services programs at any housing authority
  - Families displaced as a result of federally declared disasters may receive preference over waiting list placeholders.

### **2.2.9 Verification of Preferences**

Any preference claimed on the pre-application or while the family is on the waiting list will be verified in accordance with the Housing Authority's verification policies after the family is selected from the waiting list and prior to completing the full application described in this Chapter. The qualification for the preference must exist at the time the preference is claimed and at the time of verification because a claim of preference determines placement on the waiting list. If the Housing Authority denies a preference, the Housing Authority will notify the applicant in writing of the reasons why the preference was denied and return the applicant to the waiting list without the benefit of the preference. Families who are returned to the waiting list for not meeting the claimed preference are not entitled to an informal review as they have not been found ineligible. Applicants may exercise other rights if they believe they have been discriminated against.

## **CHAPTER 3: ELIGIBILITY FACTORS FOR ADMISSION**

### **3. Introduction [24 CFR 982.54(d)]**

This chapter defines the criteria used by the Housing Authority to determine program eligibility, and the requirements that families and family members must meet in order to receive assistance under the program. This chapter also clarifies the circumstances that may lead to a denial of admission, and the process for notifying families if they are denied admission.

Family members being added to households that are currently receiving assistance are considered new applicants and are subject to the Housing Authority's admission and eligibility requirements.

The intent of these policies is to maintain consistency and objectivity in evaluating the eligibility of families who apply for the programs. The criteria listed in this chapter are the only factors used to review eligibility to minimize the possibility of bias or discrimination. Selection shall be made without regard to, race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap, disability, or sexual orientation, source of income, or disability/handicap.

### **3.1 Eligibility Factors and Requirements [24 CFR 982.201 and 24 CFR 982.552]**

In accordance with HUD regulations, the Housing Authority has established the following eligibility criteria, which are detailed throughout this chapter. To be eligible for admission, an applicant family must:

- Meet the definition of a "family" as defined in this Chapter;
- Be within the appropriate income limit;
- Be a citizen, or a non-citizen with eligible immigration status [24 CFR §5.508]; and
- 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.
  - These requirements do not apply to noncitizens who do not contend eligible immigration status.



The Housing Authority will also deny admission as follows:

- If applicant fails to meet specified criteria regarding drug abuse and other criminal activity;
- If the applicant is a current participant of the same program or PBV development for which an application has been submitted (such as an applicant for the Term-Limited Lease Assistance program who is a current participant of the Term-Limited Lease Assistance program);
- If applicant fails to submit required consent forms or any other Housing Authority-required information to verify family eligibility, composition, or income (including birth certificates and valid government issued identification);
- If applicant is in violation of other criteria listed in this Chapter;
- If the applicant is a member, officer, or employee of the Housing Authority who formulates policy or influences decisions with respect to federally-funded rental assistance programs or a public official or a member of the local governing body or member of Congress; or
- If applicant is a student enrolled in an institution of higher learning and meets all the criteria listed in the Full-Time Student section of Chapter 4: Members.

The Housing Authority's procedures regarding notification and informal reviews for applicants who are denied assistance can be found at the end of this chapter. The Housing Authority may take into consideration any admission criteria listed in this chapter in order to screen applicants for program eligibility; however, it is the owner's responsibility to screen applicants for family behavior and suitability for tenancy.

The Housing Authority will assist and advise applicants on how to file a complaint if they have been discriminated against by an owner.

### **3.2 Family Composition [24 CFR 982.201(c)]**

This section outlines the Housing Authority definitions of what constitutes a family for the purposes of admission. Definition of individual household members is described in Chapter 4.

#### **3.2.1 Family Types**

The applicant must qualify as a family. The Housing Authority defines a family as a single person or a group of persons as described in the following sections on elderly family, disabled family, group of persons and a single person.

All currently assisted elderly and disabled participants in the Transitional Assistance for MTW Families program who have a recertification effective date of February 1, 2015, or later, will participate in the Streamlined Fixed Lease Assistance for Elderly/Disabled Families program as of their recertification date. No Child Left Unsheltered elderly/disabled families, admitted on or after October 1, 2019, will be transitioned to the Streamlined Fixed Lease Assistance program after two years of participation in the No Child Left Unsheltered program.

### 3.11.2.1 Mainstream Vouchers

The Mainstream Voucher Program was developed to provide rental assistance to persons with disabilities who are seeking suitable, affordable, and accessible housing in the private market. Vouchers awarded under the Mainstream 811 NOFA are administered using the same rent calculation methods as the Streamlined Fixed Lease Assistance program.

### **3.11.3 Streamlined Tiered Lease Assistance for Career-Focused Families**

All currently assisted non-elderly and non-disabled participants in the Transitional Assistance for MTW Families program who have a recertification effective date of February 1, 2015, or later, including current incoming portability families for which HACSB bills the initial PHA, families assisted under the No Child Left Unsheltered program criteria (admitted prior to October 1, 2019), families assisted under the sponsor-based project-based voucher program criteria, current project-based voucher participants, and/or former Upland Housing Authority career focused families transferred through the HUD approved voluntary transfer on July 1, 2017 will participate in the Streamlined Tiered Lease Assistance for Career Focused Families program as of their recertification date.

### **3.11.4 Streamlined Fixed Lease Assistance for Career-Focused Families<sup>9</sup>**

All non-elderly and non-disabled families admitted under the project-based voucher program and sponsor-based project-based voucher program after January 1, 2017, will participate in the Streamlined Fixed Lease Assistance for Career-Focused Families program. Current project-based voucher and sponsor-based voucher participant families who no longer qualify for Streamlined Fixed Lease Assistance for Elderly/Disabled Families program after January 1, 2017, will participate in the Streamlined Fixed Lease Assistance for Career-Focused Families program as of their recertification date.

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<sup>9</sup> HACSB's 2016 MTW Plan included revisions to Activity 22: Streamlined Lease Assistance, to add Streamlined Fixed Lease Assistance for Career-Focused Families.

### **3.11.5 Transitional Assistance for MTW Families**

Participants in the Housing Services program (excluding Term-Limited Lease Assistance and Traditional Regulatory Special Purpose programs) that have a recertification effective date prior to February 1, 2015, participate in the Transitional Assistance for MTW Families program until their next regularly scheduled recertification at which time they will transition to the Streamlined Lease Assistance program that they are determined to be eligible for.

### **3.11.6 Traditional, Regulatory Assistance for Special Purpose Programs**

The Special Purpose programs program described in this section are administered in accordance with federal regulations and the specific criteria established by the special purpose program. Some of the eligibility criteria described in this Chapter, such as certain criminal background requirements, may be different for participants in these programs. A description of each program, including certain eligibility criteria, is provided below:

#### **3.11.6.1 Continuum of Care**

The Continuum of Care program was developed by the Housing Authority in cooperation with the County of San Bernardino Department of Behavioral Health (DBH) to provide decent housing and long-term mental health services to mentally ill participants and their families. Applicants are referred by DBH and must cooperate with supportive service providers in order to maintain their eligibility for the program. DBH utilizes a network of resources to provide a variety of services related to job training, health care, child care, and educational advancement.

#### **3.11.6.2 Veterans Affairs Supportive Housing (VASH)**

The Veterans Affairs Supportive Housing program (VASH) is for homeless veterans with severe psychiatric or substance abuse disorders. The Housing Authority and Veterans Administration Medical Center (VAMC) have partnered to provide rental vouchers and supportive services to eligible veterans.

The veteran must demonstrate to the VAMC that he/she is homeless (has been living outdoors, in a shelter, in an automobile, etc.) before being evaluated for this program. VAMC will provide supportive services and if appropriate refer veterans to the Housing Authority. After receiving the referral Housing Authority will determine if the veteran is eligible for the program.

#### **3.11.6.3 Mainstream 5 Program**

The Mainstream 5 program was developed to provide rental assistance to persons with disabilities who are seeking suitable, affordable and accessible housing in the private market. Effective with the October 1, 2020 recertifications, Mainstream 5 participants will

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be transitioned onto the Streamlined Fixed Lease Assistance program if the tenant rent change is less than a \$50 increase. Those with an increase greater than \$50 will be placed on a biennial recertification schedule, given notice of the rental adjustment, and begin to transition starting with recertifications effective October 1, 2021. HACSB selects Mainstream 5 families from the regular HCV waiting list.

### 3.11.6.34 Housing Opportunities for People with AIDS (HOPWA)

The Housing Authority has partnered with the Foothill AIDS Project to offer rental assistance and supportive services to individuals with HIV/AIDS through the HOPWA program. Applications from residents of San Bernardino County are processed through the Foothill AIDS Project to the Housing Authority from designated local service providers. Once verification of the applicant's diagnosis is obtained, the Foothill AIDS Project will assess the applicant's duration of participation in their case management program and facilitate location of suitable housing to meet the client's needs. Priority is given to clients who demonstrate stability and the ability to follow through with their case plan.

### 3.11.6.54 Master Leasing Program

The Master Leasing program is funded by the State of California Mental Health funds and serves mentally ill or developmentally disabled families with intensive supportive services provided by the Department of Behavioral Health.

### 3.12 Denial of Assistance [24 CFR 982.201(f)(1) and 982.552(a)(2)]

Denial of assistance for an applicant family may include denying placement on the waiting list; denying or withdrawing a voucher or family obligations agreement; refusing to enter into a Housing Assistance Payment or Lease Assistance Payment contract or approve a lease; and refusing to process or provide assistance under portability procedures.

Families from the waiting list who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review if they do not agree with the decision. This policy also applies to incoming families from other housing authorities that have not yet received assistance in the Housing Authority's jurisdiction. Refer to Chapter 15 for more information on the informal review process.

### 3.13 Violence Against Women Act

The Violence against Women Reauthorization Act of 2013 (VAWA 2013) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. Specifically, Section 606(4)(A) of VAWA adds an addition provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the

housing choice voucher program. The addition provision is that an applicant or participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission [24 CFR 5.2005].

### **3.13.1 Definitions [24 CFR 5.2003]**

The following defines the terms as used in the VAWA legislation:

The term *bifurcate* means, with respect to an assisted 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 *domestic violence* includes 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.

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 and the frequency of interaction between the persons involved in the relationship

The term *stalking* means:

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's individual safety or the safety of others; or
- Suffer substantial emotional distress

The term *affiliated* means:

With respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in place of a

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### **4.10.5 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.

### **4.10.6 Absences Due to Incarceration**

If the sole member is incarcerated for more than thirty (30) consecutive days, s/he will be considered permanently absent, and a 30-day notice of termination will be issued to the family and the owner. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for thirty (30) consecutive days.

### **4.10.7 Return of Permanently Absent Family Members**

The family must request Housing Authority approval for the return of any adult family members that the HACSB has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in Chapter 3: Eligibility and Admissions Criteria.

### **4.10.8 Absence of Entire Family [24 CFR 982.312]**

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the Housing Authority will terminate assistance in accordance with appropriate termination procedures contained in this Administrative Plan. Families are required to:

- Notify the Housing Authority before they move out of a unit.
- Give the Housing Authority information about any family absence from the unit.
- Notify the Housing Authority if they are going to be absent from the unit for more than thirty (30) consecutive days.

If the entire family is absent from the assisted unit for more than thirty (30) consecutive days, the unit will be considered to be vacated and the assistance will be terminated after a 30-day notice to the family and the owner has been issued. If it is determined that the family is absent from the unit, the Housing Authority will not continue assistance payments. In order to determine if the family is absent from the unit, the Housing Authority may:

- Write letters to the family of the unit
- Verify if utilities are in service
- Contact the Post Office



## **CHAPTER 5: SUBSIDY STANDARDS**

### **5. Introduction**

HUD guidelines require that Housing Authority establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of Housing Authority's inspection standards. This chapter explains the subsidy standards which will be used to determine the assistance size for families when they are selected from the waiting list, as well as the Housing Authority's procedures when a family's size changes or a family selects a unit size that is different from the assistance size issued.

#### **5.1 Determination of Subsidy Standard [24 CFR 982.402]**

Applicants and participants of the Housing Services program are issued a document that allows them to search for a unit. This assistance document is known as the Family Obligations Agreement for the Term-Limited Lease Assistance program and the Streamlined Lease Assistance programs. The document is known as a Voucher for the Transitional Assistance for MTW families and the Traditional, Regulatory Assistance for Special Purpose program families. Each document indicates what the authorized bedroom size for assistance is, and this is known as the subsidy standard.

The subsidy standard and determination of bedroom size are based upon the number of family members who will reside in the assisted dwelling unit. All standards in this section relate to the number of bedrooms on the assistance document, not the family's actual living arrangements. The unit size on the assistance document remains the same as long as the family composition meets the guidelines for the same unit size.

As required by federal regulations, the Housing Authority's subsidy standards shall provide for the smallest number of bedrooms needed to house a family without overcrowding. They will be applied consistently for all families of like size and composition, in a manner consistent with fair housing guidelines and inspection standards. All children anticipated to reside in a dwelling unit will be included, as members of the household. This may include children expected to be born to an applicant/participant, children who are in the process of being adopted by an applicant/participant, or children whose custody is being obtained by an applicant/participant.

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For Term-Limited Lease Assistance, Streamlined Lease Assistance, and Transitional Assistance for MTW families, the Housing Authority will assign one bedroom to two people, regardless of gender, age or relationship of family members, within the following guidelines:

<u><b>GUIDELINES FOR DETERMINING SUBSIDY STANDARD</b></u>		
<u><b>Subsidy Standard</b></u>	<u><b>Minimum Persons in Household</b></u>	<u><b>Maximum Persons in Household</b></u>
<u>1 Bedroom</u>	<u>1</u>	<u>3</u>
<u>2 Bedrooms</u>	<u>3</u>	<u>5</u>
<u>3 Bedrooms</u>	<u>5</u>	<u>7</u>
<u>4 Bedrooms</u>	<u>7</u>	<u>9</u>
<u>5 Bedrooms</u>	<u>9</u>	<u>11</u>
<u>6 Bedrooms</u>	<u>11</u>	<u>13</u>

- Foster children will be included in the determination of unit size only if they will be in the unit for more than twelve (12) months.
- Live-in aides will generally be provided a separate bedroom. No additional bedrooms are provided for the aide's family.
- Space may be provided for a dependent who is away at school but who lives with the family during school recesses.
- Space will not be provided for a family member, other than a spouse or cohead who will be absent most of the time, such as a member who is away in the military.
- Single person families shall be allocated one bedroom.
- If the family decides to move or is required to move, the subsidy standard will be based on the family's current composition and applicable agency standards.
- Alternative occupancy standards have been established that will permit certain project-based units to be occupied with up to two persons per bedroom. This flexibility will potentially allow a family leasing a project-based unit to be overhoused by occupying a larger unit than would normally be permitted under occupancy standards. Utilization of the alternative standards is on a case-by-case basis and requires Housing Authority Approval. Refer to Chapter 20: Project-Based Assistance Program, 20.12.1. Alternative Occupancy Standards.

For Traditional, Regulatory Assistance Programs and VASH, the Housing Authority will assign one bedroom to the Head of Household, Spouse and/or cohead and an additional



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bedroom for every two family members. For example, a 2 person household (Head of Household and child) would be eligible for a 2 bedroom.

GUIDELINES FOR DETERMINING SUBSIDY STANDARD		
Subsidy Standard	Minimum Persons in Household	Maximum Persons in Household
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	6	8
5 Bedrooms	8	10
6 Bedrooms	10	12

### 5.2 Subsidy Standards Waiver [24 CFR 982.402(b)(8)]

The standards discussed above should apply to the vast majority of assisted families. However, in some cases, the Housing Authority may grant waivers to the subsidy standards. Examples of possible exceptions that may be justified include but are not limited to:

- The health of a family member.
- A reasonable accommodation for a person with a disability.

Requests based on health related reasons must be verified, in writing, by a doctor or other medical professional. The request must specify the reason for the request and how providing a larger bedroom size would improve or accommodate the medical condition. In regard to requests for an additional bedroom, the Housing Authority may consider a living room or other available space that meets inspection standards as a living/sleeping area as long as it does not exceed the maximum occupancy standards described below.

A Housing Authority employee who has not been involved in the initial determination will review the subsidy standard exception request and then make a decision based on the specifics of the individual case. After the decision is made, the applicant or participant will receive written notification from the Housing Authority advising the applicant or participant of the decision regarding the exception.

To request a larger bedroom size than indicated by the subsidy standards for any other reason, the family must submit a written request within ten (10) calendar days of the Housing Authority's determination. The request must explain the need or justification for a larger bedroom size.

family will pay the difference between the amount the Housing Authority will pay under the Streamlined Fixed Lease Assistance Program on behalf of the family and the contract rent.

### **6.4.7 Hardship Exemption Criteria for Streamlined Lease Assistance Programs**

HACSB recognizes that under some circumstances, families may experience a hardship that makes it challenging to pay the applicable rent under the Streamlined Lease Assistance Program. Hardship exemption criteria have been developed for all families that see a significant increase in their portion as a direct result of the SLA calculation at initial implementation of the activity or experience certain expenses or losses of income while participating in the program. In order for families to be eligible for a hardship exemption, they must make their request for a hardship exemption in writing and be in compliance with all program rules and regulations. The request for hardship exemption must come no later than 60 days after the most recent change in circumstances. Permanent hardship exemption requests must be received within 60 days or by next recertification whichever is later. Families also must provide all supporting documents regarding their case and all requests for hardship exemptions will be reviewed by the Hardship Review Committee. After the committee has evaluated the family's request, they will determine if the family qualifies for a temporary or permanent hardship exemption. The following sections describe the types of hardship exemptions that may be granted. All non-elderly/non-disabled households approved for a temporary hardship exemption will be required to participate in the Career Development Initiatives case management activities.

#### **6.4.7.1 Permanent Hardship Exemptions**

A permanent hardship exemption may be approved for the following reasons:

- the family experiences a death of a household member with income;
- any income-earning member of the assisted family no longer remains in the unit;
- an elderly or disabled household experiences a permanent loss of income;
- Unforeseen and involuntary permanent loss of income for a family member under the age of 18.

If a permanent hardship exemption has been approved, HACSB will reset the family's previous highest rent share (the "baseline rent") by recalculating the family's income and applying the applicable rent percentage. For example, for families participating in the Streamlined Fixed Lease Assistance for Elderly/Disabled Families program, the new monthly income will be multiplied by twenty-four percent (24%) or thirty percent (30%)

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depending upon the family's admissions date to determine the new monthly rent share. For families participating in the Streamlined Tiered Lease Assistance for Career-Focused Families program, the new monthly income will be multiplied by the most recent tiered rent percentage established at recertification to determine the new monthly rent share.

### 6.4.7.2 Temporary Hardship Exemptions

HACSB also recognizes that certain hardships may exist on a temporary basis. The temporary relief that HACSB will offer families depends on the type of hardship being experienced by the family. Families initially leasing under the Streamlined Lease Assistance program may qualify for a temporary hardship exemption upon verification the family has no household income. No more than one temporary hardship exemption may be requested within a 12 month period. The table below describes each type of temporary hardship exemption that may be approved by the Housing Authority.

Temporary Hardship Reason	Temporary Hardship Exemption Relief
Unforeseen involuntary loss of employment; or unforeseen loss of income due to major illness as determined by a medical professional.	Family's income will be recalculated and for 6 months the family's rent will be based upon most recent percentage established at recertification or the minimum rent, whichever is higher. HACSB will provide a 60 day notice that the rent will revert to the previous rent amount at the end of the 6 months. The family's income will not be re-reviewed until the next recertification. <u>The 6 month exemption period can be extended another six months if the length of the illness is longer than the initial 6 months.</u>
Significant medical expenses over \$2,500 for single medical event for Streamlined Fixed families only.	Family's income will be recalculated at a 5% reduction to the fixed percentage and for 6 months the family's rent will be based upon that percentage or the minimum rent, whichever is higher.
Unforeseen involuntary permanent loss of income for an adult family member who is attending high school.	Family's income will be recalculated and for 6 months the family's rent will be based upon most recent percentage established at recertification or the minimum rent, whichever is higher. HACSB will provide a 60 day notice that the rent will revert to the previous rent amount at the end of the 6 months. The family's income will not be re-reviewed until the next recertification.

If the temporary hardship is due to loss of income, the income of the family member, who experienced the income loss, will be removed from the family income, and the rent amount will be based on the remaining family income. Because the family is not required to report interim income changes, the source of income to be removed under the hardship exemption may differ from the reported income change. At the end of the six month

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exemption period, the income that had been removed will be added back to the family income and will not be recalculated.

For example, the last reported income may have been self-employment of \$1,000 per month. However, since the last recertification the family member ended self-employment and started receiving a regular wage of \$2,000 per month. This interim change was not required to be reported by the family. Now, the family is reporting an unforeseen, involuntary loss of employment. The hardship exemption would remove the \$1,000 per month self-employment from the family income, and after six months the \$1,000 would be added back to the family income.

### 6.4.7.3 Pre-Implementation Hardship Exemptions

Prior to implementation of the Streamlined Lease Assistance programs, HACSB conducted a detailed data analysis. As part of that data analysis, certain households were determined to be likely to experience a disproportionate impact as the result of the implementation. This temporary hardship exemption would allow the family to maintain their previous total family rent share for up to six (6) months. HACSB would send a sixty (60) day notice that the family would be subject to the new streamlined calculation at the end of six (6) months. If approved, the Program Integrity Unit (P.I.U.) will determine the amount and effective timeline for the hardship exemption request. For those families that are currently renting a unit that is larger than their approved subsidy standard HACSB will offer these families either the opportunity to move or the opportunity to have a temporary hardship exemption.

### 6.4.8 Transitional Assistance for MTW Families and Traditional, Regulatory Assistance for Special Purpose Programs

The family rent share for a household is determined by using the largest of the following: ten percent (10%) of Monthly Annual Income, thirty percent (30%) of Monthly Annual Adjusted Income or the applicable minimum rent. Family rent share also considers whether the family has rented a unit whose contract rent is above the payment standard. Any amount over the payment standard must be paid for by the family and cannot be subsidized by the Housing Authority.

- Social security numbers
- Legal identity
- Documentation of age
- Disability status
- Family relationships
- Student status
- Allowances
- Deductions
- If applicable, eligibility for special program type

### **7.3 Verification Policies for Continued Assistance**

The Housing Authority will require households to provide documentation for the factors described in this section at recertification and interim recertification as applicable.

#### ***7.3.1 General Verification Policies for Continued Assistance for MTW Programs***

For families participating in the HACSB MTW program and Veterans Affairs Supportive Housing (VASH) program, HACSB will use the following verification hierarchy. This section applies to the Veterans Affairs Supportive Housing (VASH) program effective January 1, 2019, or as soon as practicable thereafter.

For income sources that are available for verification in HUD's Enterprise Income Verification (EIV) system or other available Up-Front Income Verification (UIV) systems, HACSB will compare the documents provided by the household with the information in the EIV/UIV systems. Currently, income sources that are available in EIV include income from wages, unemployment benefits, Social Security, and Supplemental Security Income. Income sources that may be available through other UIV systems include Temporary Assistance to Needy Families and income from wages through the Work Number.

If there is a discrepancy of \$200 or more per month between the documents provided by the household and the EIV/UIV system, HACSB will require third-party written verification of the income. If the Housing Authority is unable to obtain third-party written verification it will then attempt to receive third-party oral verification. If those attempts are unsuccessful, HACSB will rely on the documents provided by the household to calculate income.

If there is a discrepancy of less than \$200 per month between the documents provided by the household and the EIV/UIV system, HACSB will calculate income based on the most recent verification of the source and the associated amount of income from that source.

assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

- The expense is not reimbursed from another source
  - 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.

### 7.11 Child Care Expenses Allowance

#### ***7.11.12 Term-Limited Lease Assistance and Streamlined Lease Assistance Programs***

There is no child care allowance for the Term-Limited Lease Assistance and Streamlined Lease Assistance programs.

#### ***7.11.23 Transitional Assistance for MTW Families Program and Traditional, Regulatory Assistance for Special Purpose Programs***

The amount of the deduction will be verified following the standard verification procedures described in this Chapter. In addition, the Housing Authority will verify that:

- The child is eligible for care.
  - The Housing Authority will verify that the child being cared for (including foster children) is under the age of thirteen (13)
- The costs claimed are not reimbursed.
  - The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.
- The costs are for an allowable type of child care.
  - The Housing Authority will verify that the type of child care selected by the family is allowable, as described in Chapter 6.
  - The Housing Authority will verify that the fees paid to the child care provider cover only child care costs and are paid only for the care of an eligible child.
  - The Housing Authority will verify that the child care provider is not an assisted family member.
- The costs are reasonable.
  - The actual costs the family incurs will be compared with the Housing Authority's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. The Housing Authority will use the State of California's Regional Market Rate Survey of Child Care Providers as the standard of reasonableness. If the actual cost of child care

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exceeds the standard, the child care allowance will be capped at the standard rate.

- The costs enable a family member to pursue an eligible activity.
  - The Housing Authority will verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.
    - Seeking Work - Whenever possible the Housing Authority will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the Housing Authority 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 Housing Authority any reports provided to the other agency. In the event third-party verification is not available, the Housing Authority will provide the family with a form on which the family member must record job search efforts.
    - Furthering Education - The Housing Authority 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 Housing Authority 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.



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### **10.1.2 Annual and Biennial Inspections [24 CFR 982.405 (a)]**

The Housing Authority conducts an inspection of each unit under Contract biennially for Moving to Work program units and annually for all other units in the Housing Services program. Deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the participant is responsible.

The family must allow the Housing Authority to inspect the unit at reasonable times with reasonable notice. The Housing Authority considers reasonable hours to conduct an inspection between routine hours Monday through Friday.

The Housing Authority will notify the family and landlord in writing at least ten (10) days prior to the inspection. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within thirty (30) days.

If the family does not contact the Housing Authority to reschedule the inspection, or if the family misses two (2) inspection appointments, the Housing Authority will consider the family to have violated a family obligation and their assistance may be terminated in accordance with the termination procedures in Chapter 16 of this Administrative Plan.

### **10.1.3 Reinspection**

If a unit fails annual or biennial inspection, the Housing Authority will schedule a reinspection of the unit and notify the family and owner of the reinspection date and time by mail. In some cases, the Housing Authority will accept a self-certification of repairs along with documentation and photographs in lieu of conducting a reinspection. Self-certifications will not be accepted for emergency items. If the family is not at home for the reinspection appointment, a card will be left at the unit and another appointment may be scheduled upon approval by a supervisor. The appointment letter contains a warning of abatement (in the case of owner responsibility), and a notice of the owner's responsibility to notify the family.

The family is also notified that it is a family obligation to allow the Housing Authority to inspect the unit. The family will be advised that tenant-caused deficiencies may result in termination of assistance in accordance with Chapter 16.

### **10.1.4 Special/Complaint Inspections [HCV GB, p 10-30]**

If at any time the family or owner notifies the Housing Authority that the unit does not meet inspection standards, the Housing Authority will conduct an inspection.



- G. Utilities not in service
- H. No running hot water
- I. Broken glass where someone could be injured
- J. Obstacle which prevents tenant's entrance or exit
- K. Lack of functioning toilet
- L. Inoperable smoke detectors
- M. Any condition cited as life-threatening by other agencies with jurisdiction

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the Housing Authority.

If the emergency repair item(s) are not corrected in the time period required by the Housing Authority, and the owner is responsible, the housing assistance payment will be abated and the contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the Housing Authority and the tenant is responsible and in violation of their family obligations, the Housing Authority will take appropriate steps to enforce the family obligations.

### ***10.2.2 Non-Emergency Items***

For non-emergency items, repairs must be made within thirty (30) days of the original inspection date unless an extension is granted by the Housing Authority. When it has been determined that a unit on the program fails to meet inspection standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the Housing Authority, the assistance payment to the owner will be abated. The Housing Authority will not pay any housing assistance for the time period the unit is in a failed status.

The Housing Authority may also notify landlords of recommendations for repair of items that would improve the unit but do not fail inspection standards and do not impact the health and/or safety of the participant's household.

### ***10.2.3 Extensions for Repairs***

The owner may request an extension for repairs beyond the thirty (30) day reinspection deadline. The request must be submitted in writing and include an estimated date for the completion of the repairs. The Housing Authority will grant extensions under the following circumstances:

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- Failure of the tenant to make unit available for repairs (copies of notices to the tenant must be submitted with the owner's request);
- Illness/hospitalization of the owner during the inspection period;
- Extensive repairs requiring building permits;
- The materials or parts necessary to make repairs need to be ordered; or
- Other circumstances as approved by the Housing Manager or Assistant Director.

Additionally, the unit will not be abated if the family fails to make the unit available for re-inspection or for the repairs.

### **10.2.4 Abatement and Termination [24 CFR 985.3(f)]**

A notice of abatement and termination of contract will be sent to the owner after the unit is found in noncompliance with inspection standards at the correction date. In addition the move process on behalf of the participant will be started. The abatement will be effective from the first day of the month after the date of the failed re-inspection. The contract termination date will be thirty (30) days after the effective date of the abatement.

The owner may still make repairs on the unit during the abatement period. However, the owner must notify the Housing Authority that repairs have been completed. After receiving notification of completed repairs, the Housing Authority will conduct a reinspection within fourteen (14) days. The family and owner will be notified of the reinspection date in writing. Payment will resume on a unit the day it passes inspection.

No retroactive payments will be made to the owner for the period of time the housing assistance was abated and the unit did not comply with inspection standards.

If repairs are completed before the effective termination date, the termination may be rescinded by the Housing Authority if the participant chooses to remain in the unit. Only one (1) reinspection will be conducted after the termination notice is issued.

### **10.3 Determination of Responsibility [24 CFR 982.404]**

Certain inspection standard deficiencies are considered the responsibility of the family:

- A. Tenant-paid utilities not in service
- B. Failure to provide or maintain family-supplied appliances
- C. Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "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.

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- Failure of the tenant to make unit available for repairs (copies of notices to the tenant must be submitted with the owner's request);
- Illness/hospitalization of the owner during the inspection period;
- Extensive repairs requiring building permits;
- The materials or parts necessary to make repairs need to be ordered; or
- Other circumstances as approved by the Housing Manager or Assistant Director.

Additionally, the unit will not be abated if the family fails to make the unit available for re-inspection or for the repairs.

### **10.2.4 Abatement and Termination [24 CFR 985.3(f)]**

A notice of abatement and termination of contract will be sent to the owner after the unit is found in noncompliance with inspection standards at the correction date. In addition the move process on behalf of the participant will be started. The abatement will be effective from the first day of the month after the date of the failed re-inspection. The contract termination date will be thirty (30) days after the effective date of the abatement.

The owner may still make repairs on the unit during the abatement period. However, the owner must notify the Housing Authority that repairs have been completed. After receiving notification of completed repairs, the Housing Authority will conduct a reinspection within fourteen (14) days. The family and owner will be notified of the reinspection date in writing. Payment will resume on a unit the day it passes inspection.

No retroactive payments will be made to the owner for the period of time the housing assistance was abated and the unit did not comply with inspection standards.

If repairs are completed before the effective termination date, the termination may be rescinded by the Housing Authority if the participant chooses to remain in the unit. Only one (1) reinspection will be conducted after the termination notice is issued.

### **10.3 Determination of Responsibility [24 CFR 982.404]**

Certain inspection standard deficiencies are considered the responsibility of the family:

- A. Tenant-paid utilities not in service
- B. Failure to provide or maintain family-supplied appliances
- C. Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "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.

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The owner is responsible for all other inspection standard violations. Under California law, the owner must make repairs to the unit, regardless of whether the damage was tenant caused. The owner may charge the tenant for the repair, but cannot opt not to make repairs when it is determined it was tenant caused. The only exception is when utilities are not on or tenant supplied appliances are inoperable or missing, and the tenant is responsible, per the lease and contract, to pay for the utilities and/or provide appliances.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The Housing Authority may terminate the family's assistance on that basis.

If a non-emergency violation of inspection standards is determined to be the responsibility of the family, the Housing Authority will require the family make any repair(s) or corrections within thirty (30) days. If the repair(s) or correction(s) are not made in this time period, the Housing Authority will terminate assistance to the family. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the contract will terminate when assistance is terminated.

### 10.4 Additional Local Requirements [24 CFR 982.401 (a)(4)]

The Housing Authority adheres to all HUD required standards under Housing Quality Standards (HQS). The Housing Authority has also adopted additional quality standards in alignment with HUD regulations, California law, local codes and Housing Authority policy. These policies are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. These additions are clarifications of HUD's acceptability criteria or performance standards.

All Housing Authority inspection standards can be reviewed through the Housing Authority website at: [www.hacsb.com](http://www.hacsb.com). Specifically, HACSB has clarified the following criteria for all units in the Housing Services program:

- Thermal Environment [HCV GB p.10-7]
  - Primary heat source must be capable of generally maintaining an even temperature of sixty-five (65) degrees in all rooms in the unit living and sleeping area.

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### 12.8.2.1 Term-Limited Lease Assistance and Streamlined Tiered Lease Assistance programs

The Housing Authority will not process any interim recertifications due to changes in income for participants in the Term-Limited Lease Assistance or Streamlined Tiered Lease Assistance programs. However, families may request a hardship exemption under certain circumstances as described in Chapter 6.

### 12.8.2.2 Streamlined Fixed Lease Assistance Program

The Housing Authority will not process any interim recertifications due to changes in income for participants in the Streamlined Fixed Lease Assistance programs. However, families may request a hardship exemption under certain circumstances as described in Chapter 6, due to a change in family composition that results in lost income.

### 12.8.2.3 Transitional Assistance for MTW Families

The family must report any changes in income. However, if the change in income is less than \$300 per month the Housing Authority will not process the interim recertification although the documentation will be notated in the participant's file.

If changes are not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered a violation of family obligations and assistance may be terminated.

The Housing Authority will schedule an interim recertification for each zero income family every ninety (90) days.

#### 12.8.2.3.1 Transitional Assistance for MTW Families and Transitioning to the Streamlined Lease Assistance Program

If a Transitional Assistance for MTW families household reports an interim change in income after November 1, 2014 and they are more than 6 months from their regular recertification date, the Housing Authority will do a side-by-side calculation to compare the family rent share under the Transitional Assistance for MTW families program and the family rent share under the program they will be transitioning to at their next regular recertification; either Streamlined Fixed or Streamlined Tiered Lease Assistance, depending on household eligibility. If the side-by-side calculation determines that the family may benefit from transitioning to the Streamlined Lease Assistance program sooner they will be given the opportunity to do so and will be required to complete a Program Transfer Request form once they have attended a Streamlined Lease Assistance briefing and been informed of their rights and responsibilities under the

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assignment of the contract in writing, the assignment is nevertheless effective by operation of law.

- Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest refuses to accept payment or cannot be identified, the tenant should pay the rent into escrow, because failure to pay rent may constitute an independent ground for eviction.
- If the Housing Authority is unable to make payments to the successor in interest due to: (1) An action or inaction by the successor in interest that prevents such payments, including the rejection of payments or the failure of the successor to maintain the property in accordance with inspection standards; or (2) An inability to identify the successor, the Housing Authority should inform the family of this.
- The Housing Authority must make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving Housing Services program assistance, will be (or has been) assisted under the Neighborhood Stabilization program.

### 13.2 Elective Moves [24 CFR 982.314(c) and 24 CFR 982.1(b)(2)]

An elective move is a move in which the family chooses to locate another suitable housing unit and transfer their housing assistance to that unit. The move can be initiated by the tenant by providing a written notice to the landlord or through mutual rescission of the lease~~and transfer their housing assistance to that unit.~~ Elective moves may be initiated by the program participant at any time after the term of the lease has ended or by mutual agreement with the landlord.~~and generally must occur in coordination with the current unit lease expiration date.~~ Participants must request an elective move in writing and if approved will be scheduled for, and must attend, a Program Move briefing in accordance with the Family Obligations Agreement and Voucher Issuance Chapter of this Administrative Plan.

- If a family is approved to move as a reasonable accommodation under the tenant-based voucher program, the family will be scheduled for a move briefing and issued a move voucher. However, if the family has remaining time on their lease, the family must obtain written authorization from the owner to break the lease.
- The Housing Authority will allow exceptions to these policies if the family was approved to relocate in accordance with the Housing Authority's procedures for the Violence Against Women's Act (VAWA).

If a Transitional Assistance for MTW Families (including project-based) household is approved to move after November 1, 2014, they will be fully recertified, their regular recertification date will be reset, and they will transition to either the Streamlined Lease

- Hearing information including:
  - Name of the participant;
  - Date, time and place of the hearing;
  - Name of the hearing officer;
  - Name of the Housing Authority 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 Housing Authority's decision.
- Order: The hearing report will include a statement of whether the Housing Authority's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Housing Authority 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 Housing Authority to restore the participant's program status.

### ***16.6.8 Housing Authority Notice of Final Decision [24 CFR 982.555(f)]***

Under the authority of the Executive Director or designee, the Housing Authority may declare that it is not bound by the decision of the hearing officer for matters in which the Housing Authority 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, the Housing Authority's Moving to Work authorizations or are otherwise contrary to Federal, State or local laws.



If the Housing Authority determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the Housing Authority must promptly notify the family of the determination and the reason for the determination. Within thirty (30) days of receipt of the hearing officer's decision, the Housing Authority shall notify the participant, in writing, if it determines the Housing Authority is not bound by the hearing officer's determination. The notice shall include the Housing Authority's reasons for overturning the hearing officer's decision.

Hearing requests, supporting documentation, and a copy of the final decision will be retained in the family's file.

### ***16.6.9 How Termination of Assistance Affects Contract and Lease [Form HUD-52641 and HCV GB, p. 15-8]***

When the family's assistance is terminated, the lease and contract terminate automatically. The owner may offer the family a separate unassisted lease

### ***16.6.10 Reasonable Accommodation***

If the family includes a person with disabilities, the Housing Authority's decision to terminate assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8. If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, HACSB will determine whether the behavior is related to the disability. If so, upon the family's request, the Housing Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Housing Authority will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

### ***16.7 Hearing and Appeal Provisions for Non-Citizens [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 Housing Authority hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.



## **CHAPTER 18: FAMILY OR OWNER DEBTS TO THE HOUSING AUTHORITY AND RECORD RETENTION POLICIES**

### **18. Introduction**

This chapter describes the Housing Authority's policies concerning recovery of overpayments made by HACSB owed to the Housing Authority by families or owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the Housing Authority's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the Housing Authority's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family, or other interested parties.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the Housing Authority holds the owner or participant liable to return any overpayments to the Housing Authority. The Housing Authority may enter into a repayment agreement in accordance with the policies contained in this Chapter as a means to recover overpayments.

When an owner or participant refuses to repay monies owed, the Housing Authority will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Criminal court
- Civil law suit
- State income tax set-off program

### **18.1 Family Debts to the Housing Authority [24 CFR 982.552 (c)(v-vii)]**

Any amount due to the Housing Authority by a Housing Services program participant must be repaid by the family. If the family is unable to repay the debt within thirty (30) days, the Housing Authority may offer to enter into a repayment agreement in accordance with the policies below.

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If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the Housing Authority will terminate the housing assistance to the family. The Housing Authority may pursue other methods, even after the household is terminated from the program, of collecting the money owed to the Authority.

If a family owes an amount which equals or exceeds \$5,000 as a result of program fraud, the family will be terminated ~~and the case will be referred to the Office of the Inspector General~~. Where appropriate, the Housing Authority will refer the case for criminal prosecution.

### ***18.1.1 Repayment Agreements [24 CFR 982.552 (c)(v-vii)]***

The Housing Authority may choose to enter into a repayment agreement with a participant who owes money to the Agency. The term repayment agreement refers to a formal document created by the Housing Authority and signed by a participant where the participant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, Housing Authority action upon default of the agreement.

~~There are some circumstances in which the Housing Authority will not enter into a repayment agreement. They include, but are not limited to, the following:~~

- ~~• If the family already has or has ever had a repayment agreement in place; or~~
- ~~• If the amount is over \$5,000.~~

The minimum monthly payment amount for any repayment agreement is \$25. However, the rent plus the monthly repayment amount cannot exceed 40% of household's gross monthly income. Households must pay the Housing Authority on time as specified in the repayment agreement. A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

A late payment will result in the full balance of the repayment agreement to be paid in full and the Housing Authority may begin termination proceedings. A repayment agreement will be considered to be in default when it is in arrears for over thirty (30) days from the date due. If the family's repayment agreement is in default, and the family has not contacted or made arrangements with the Housing Authority, termination procedures will begin.

## CHAPTER 20: PROJECT-BASED ASSISTANCE PROGRAM

### 20. Introduction [24 CFR 983.2]

The Housing Authority will allocate funding for qualifying projects within the county of San Bernardino under the Project-based Voucher Program, known hereafter as the Project-based Assistance (PBA) program. Much of the tenant-based Housing Services program regulations also apply to the project-based assistance program. The provisions of the tenant-based regulations that do not apply to the project-based assistance program are listed at 24 CFR 983.2. Except as otherwise noted in this chapter, or unless specifically prohibited by project-based assistance program regulations, the Housing Authority policies for the tenant-based program contained in this Administrative Plan also apply to the project-based assistance program and its participants.

In accordance with HACSB's approved MTW Activity 11: Local Project-Based Voucher Program, these policies governing HACSB project-based vouchers will also apply to project-based Veterans Affairs Supportive Housing (VASH) vouchers effective January 1, 2019, or as soon as practicable thereafter.

### 20.1 General Requirements [24 CFR 983.5, 983.7 and 983.8]

The Housing Authority will attach a Housing Assistance Payments (HAP) contract to rental property where the owner has constructed or rehabilitated the rental property with funding sources other than those provided under the United States Housing Act of 1937.

The Housing Authority may use up to ~~twenty-five (25%)~~ thirty (30%) of its MTW baseline units for project-based assistance.<sup>55</sup> The Agency may project-base up to one-hundred percent (100%) of all units in any project-based assistance community. The Housing Authority may execute HAP contracts for a term of up to ~~fifteen (15)~~ twenty (20) years. Contract extensions not to exceed ~~fifteen (15)~~ twenty (20) years per extension may be approved if determined appropriate to continue providing affordable housing for low-income families.

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<sup>55</sup> The FY 2009 Moving to Work Annual Plan included Activity 11: Local Project-Based Voucher Program which allowed for an increase in the amount of project-based assistance that can be administered by the Housing Authority as well as other program criteria. Subsequent amendments modified components of the Local Project-Based Voucher Program.

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Any persons displaced as a result of implementation of the project-based assistance 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 Housing Authority must comply with all equal opportunity requirements under federal law and regulations in its implementation of the project-based assistance program. This includes the requirements and authorities cited at 24 CFR 5.105(a), 24 CFR 983.8, 24 CFR 903.7(o), and Section 504 of Rehabilitation Act.

### **20.1.1 Allocation Thresholds and Supportive Services Requirements**

As detailed in section 20.1, per the Housing Authorities Local Project-Based Assistance policies, the HACSB may project base up to one-hundred percent (100%) of all units in any project-based assistance community without the units above the regulated cap of 25% of units or 25 units in a single community, whichever is greater, having to qualify as 'exception' units.<sup>56</sup> This means that if the Housing Authority chooses to project base above 25% of units or more than 25 units in a single community, the supportive services in connection with 'exception unit' criteria per CFR 983.57 are not necessarily required. However, the Housing Authority may under certain circumstances enter into a Project-Based Voucher contract with an owner/developer that requires supportive service provision due to the needs of the special population being housed. When these circumstances occur the requirements of service provision will be the same as those detailed in section 20.9.2.3, Supportive Services Guidelines and Requirements, unless a Memorandum of Understanding is executed between the Housing Authority and the owner/developer which details other services that satisfy the service provision needs of the population.

### **20.2 Project-based Assistance Owner Proposals [24 CFR 983.51(b)]**

After determining the availability of funding for project-based assistance, the Housing Authority will seek out qualifying housing developments and will attach Housing Assistance Payments contracts to specified units and/or a specified number of units within the development. The Agency will give preference to Housing Authority-owned or affiliate-

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<sup>56</sup> The FY 2009 Moving to Work Annual Plan included Activity 11: Local Project-Based Voucher Program which allowed for an increase in the amount of project-based assistance that can be administered by the Housing Authority as well as other program criteria. The FY 2010 Moving to Work Annual Plan, Amendment 3 also clarified the components of the Local Project-Based Voucher Program.

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Upon notice from the owner that the housing is completed the Housing Authority must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with inspection standards and any additional requirements imposed under the AHAP. The Housing Authority must determine if the owner has submitted all required evidence of completion. If the Housing Authority has determined that the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, the Housing Authority must submit the HAP contract for execution by the owner and then must execute the HAP contract.

### **20.6 Housing Assistance Payments Contract [24 CFR 983.203]**

The Housing Authority must enter into a HAP contract with an owner for units that are receiving project-based assistance. The Housing Authority may elect to enter into a HAP contract with an owner for a total number of units by bedroom size in the development rather than specify the exact units that will be subsidized. In addition, the Housing Authority may execute project-based assistance HAP contracts for groupings of non-contiguous scattered-site properties and to contract for a total number of units by bedroom size within a development rather than for specific units. At the Housing Authority's discretion the HAP contract may be amended to substitute a different unit and to add or reduce the number of units in a development or to provide for subsidy by number of units and bedroom size rather than delineate subsidy by unit.<sup>61</sup>

The Housing Authority may not enter into a HAP contract until each contract unit has been inspected and the Housing Authority has determined that the unit complies with inspection standards. The Agency may enter into a HAP contract with an owner for an initial term of no less than one (1) year and no more than ~~fifteen (15)~~ twenty (20) years. The term of the HAP contract will be negotiated with the owner on a case-by-case basis and will provide for the ability to match the term of the HAP contract to the term of another affordable housing subsidy component committed to the project. The HAP contract will include language noting that the funding of the contract is subject to the availability of federal appropriations.

The Housing Authority may enter into a renewal agreement with the owner at the time the Agency enters into the initial agreement for a HAP contract or at any time thereafter that is before the expiration of the HAP contract. A renewal agreement may commit an

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<sup>61</sup> Under the MTW Demonstration, the Housing Authority may elect to develop a local HAP contract which will modify the terms and content of the HAP contract, including the unit/property mix.

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extension for a renewal term of up to ~~fifteen (15)~~ twenty (20) years. A renewal agreement will include language noting that the funding of the contract renewal is subject to the availability of federal appropriations.

The HAP contract will provide that the term of the Housing Authority's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or the Agency in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations and of funding under the Annual Contributions Contract (ACC) from such appropriations to make full payment to the owner for any contract year in accordance with the terms of the HAP contract. 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 Housing Authority may terminate all or part of the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

The Housing Authority may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with inspection standards. Abatements and terminations for non-compliant units will be administered in accordance with the policies used in the tenant-based program that are listed in Chapter 10 of this Administrative Plan.

### ***20.6.1 HAP Contract Year, Anniversary and Expiration Dates [24 CFR 983.206(c) and 983.302(e)]***

The HAP contract year is the period of twelve (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.

### ***20.6.2 Determining Contract and Rent to Owner***

Initial contract rent will be determined using the Housing Authority's market study that will determine local rental submarkets in lieu of the requirement to use a state certified



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The Housing Authority may select families for the project-based assistance program from those who are:

- Applicants on a Project-Based Assistance waiting list
- Eligible households who reside in the proposed project-based assistance contract unit on the date the proposal is awarded
- Eligible in-place public housing conversion families
- Eligible public housing families who are displaced due to demolition and/or disposition of a public housing development.

Applicants for project-based assistance must meet the same eligibility requirements as applicants for the tenant-based program. It is the Housing Authority's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan. By maintaining an accurate waiting list, the Housing Authority will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner. The Housing Authority uses site-based waiting lists at each senior project-based development and regionalized waiting lists for its scattered-site communities. The owner must comply with all requirements outlined in this Administrative Plan. Owner developers awarded project-based units must submit the following plans to the Housing Authority for review and approval prior to execution of an AHAP or HAP Contract:

- Marketing Plan to describe marketing and outreach activities
- Tenant Screening Plan which covers, screening criteria and procedures and requirements when applicants do not meet the criteria.

The Housing Authority staff will conduct all aspects related to tenant eligibility, intake and recertification processes as outlined in the Eligibility chapter of this Administrative Plan.

### **20.7.1 Project-Based Communities Designated for Elderly Households**

Certain project-based communities are designated for families where the head of household, spouse or cohead is sixty-two (62) years of age or older. Families that do not meet this age criteria are not eligible for the senior project-based communities.

### **20.7.2 Project-Based Communities for Special Needs**

Certain project-based communities are designated for special needs and/or homeless populations and provide supportive services. To be eligible for project-based communities designated for families with special needs, families must be homeless and need the

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specific service provided to the supportive housing residents. For these communities, the Housing Authority only accepts referrals to the waiting list from community partners.

### 20.7.2.1 No Child Left Unsheltered (NCLU)

Three (3) project-based voucher contracts provide forty (40) units designated for eligible unsheltered homeless families with children under the No Child Left Unsheltered (NCLU) program.<sup>63</sup> Families with children must be unsheltered at time of application, but do not otherwise qualify as chronically homeless under the HUD definition, but who:

- Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 90 days immediately preceding the date of application for homeless assistance; and
- Have experienced persistent instability as measured by two moves or more during the six-month period immediately preceding the date of applying for homeless assistance; and
- Can be expected to continue in such status for an extended period of time because of chronic disability, chronic physical health or mental health conditions, substance use disorder, history of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or
- Two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

HACSB has partnered with a variety of local community service providers, including the school system, to identify and refer families, particularly those with school-age children, who are unsheltered. Service coordination for NCLU families is provided by the Department of Behavioral Health.

### 20.7.2.2 Veteran Program

Northgate Village provides 12 PBV units for homeless veterans who do not qualify for Veterans Administration (VA) services. HACSB has partnered with a variety of local veteran organizations to identify and refer eligible homeless veterans. Service coordination is provided by the Department of Behavioral Health.

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<sup>63</sup> The FY 2014 MTW Plan included Activity 23: No Child Left Unsheltered. In March 2015, the Housing Commission and Board of Governors approved 40 project-based voucher units reserved for this activity.



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An over-housed household residing in a Public Housing unit that is disposed of and converted to project-based assistance may remain in the unit and the Housing Authority will subsidize the household based on the size of the unit, not the qualifying subsidy standard. The Housing Authority may require such households to move to a comparable public housing unit, project-based assistance unit or with a tenant-based assistance for the number of bedrooms for which the family qualifies.

The Housing Authority may require an under-housed household residing in a Public Housing unit that is disposed of and converted to project-based assistance to move to a comparable public housing unit, a comparable project-based assistance unit or with a tenant-based assistance for the number of bedrooms for which the household qualifies. The Housing Authority may allow such a household to remain in the unit and the Housing Authority will subsidize the household based on the size of the unit, not the qualifying subsidy standard.

The Housing Authority Relocation Plan for any public housing conversion or disposition will specifically identify the plan for housing options affected households.

### **20.9.2 Rental Assistance Demonstration Conversions**

Certain of the HACSB's PBV projects have been converted from public housing under the Department of Housing and Urban Developments (HUD) Rental Assistance Demonstration Program (RAD) to the PBV program. All projects converted to PBV Assistance under RAD are subject to the requirements of HUD PIH Notice 2012-32. The RAD requirements are in addition to, and may modify, the requirements for PBV projects as set forth in this Chapter. RAD requirements extend certain rights related to the notification of termination and grievance process to PBV families living in RAD converted properties. For PBV households who are not living in RAD converted properties, the PBV rules apply. For any PBV project converted under RAD, in the event of a conflict between the RAD requirements and the requirements of this Chapter, the RAD requirements and/or approved Moving to Work flexibilities shall prevail.

#### **20.9.2.1 Project-Based Voucher Policies Specific to Rental Assistance Demonstration Units**

- Waiting List Administration: Per the RAD Notice (PIH 2012-32), the HACSB will establish site-based PBV waiting lists. Applicants on the public housing waiting list will be transitioned to the PBV waiting list through formal notification (in compliance with PIH 2012-32) and shall have priority on the newly formed PBV site-based waiting list, for the new project site in accordance with the date and time of their application to the original

project's waiting list. For further information on how waiting list openings are noticed and applicants are selected for admission and processed for eligibility see Chapter 2.

- No Re-screening of Tenants upon Conversion: Pursuant to the RAD Notice, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

For example: A unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family.

- Vacancy Payments: The HACSB will not make vacancy payments to the owner of the project(s) assisted under the RAD PBV HAP contract.
- Relocation and Right to Return: Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved (RAD PIH-Notice 2012-32 Section 1.6.B.7 and Section 1.7.A.8 on conditions warranting a transfer of assistance), residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a HACSB or Owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.
- Households in Wrong Sized Units: The HACSB follows the policies in CFR 983.260 with respect to RAD households in wrong sized units. For further information refer to section 20.17 Moves [24 CFR 983.259 and 983.260]. Rent Calculation for legacy households at conversion from public housing: Pursuant to the RAD Program Notice PIH 2012-32, if a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 years. The below method explains the set percentage-based phase-in an owner must follow according to the phase-in period established. For purposes of this section "standard TTP" refers to the TTP calculated in accordance with regulations at 24 CFR 5.628 and the "most recently paid TTP" refers to the TTP recorded on line 9j of the family's most recent HUD Form 50058.

### Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP and the standard TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and all subsequent re-certifications – Full standard TTP

### 20.9.2.2 Termination of Tenancy for RAD Conversion Units [PIH Notice 2012-32]

Per the Rental Assistance Demonstration (RAD) Public and Indian Housing (PIH) Notice 2012-32, households that occupy RAD conversion units have additional protections in regard to termination of tenancy and eviction. These protections must be included in the owner's lease. For any PBV project converted under RAD, in the event of a conflict between the RAD Requirements and the requirements of this Chapter, the RAD Requirements and/or approved Moving to Work flexibilities shall prevail. (Note that in the RAD context “owner” may also refer to the HACSB).

In addition to the regulations at 24 CFR 983.257, related to owner termination of tenancy and eviction, the HACSB will:

- Provide adequate written notice of termination of the lease which shall not be less than:
  1. A reasonable period of time, but not to exceed 30 days:
    - a. If the health or safety of other tenants, HACSB employees, or persons residing in the immediate vicinity of the premises is threatened; or
    - b. In the event of any drug-related or violent criminal activity or any felony conviction;
  2. 14 days in the case of nonpayment of rent; and
  3. 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
- B. Grievance Process. For issues related to tenancy and termination of assistance, Project-Based Voucher (PBV) program rules require the HACSB to provide an opportunity for an informal hearing, as outlined in 24 CFR 982.555, and;
  1. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR 982.555(a)(1)(i)-(vi), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a PHA (as owner) action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

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8. Household skills and management – training in homemaking and parenting skills; household management; money management; nutrition; obtaining and retaining government, financial and medical benefits; family counseling;
9. Legal Services
10. Other services – any other services and resources, including case management, or reasonable accommodations for individuals with disabilities, that the HACSB determines to be appropriate in assisting families to achieve economic independence and self-sufficiency.

To qualify as in receipt of supportive services a family must have at least one member receiving at least one qualifying supportive service.

At the family's regularly scheduled recertification, HACSB will review documentation from the service provider or the owner indicating the family's continued compliance with the terms of the supportive services programs. Project owners will also be expected to provide some level of monitoring of the services provided. At HACSB's discretion, HACSB may request additional documentation of compliance with supportive service obligations.

Family Failure to Comply with Supportive Service Requirements: Failure without good cause by a family to complete or comply with its supportive service participation requirements may result in termination of the project-based assistance for that unit and may result in the termination of the lease by the project owner.

### **20.10 Local Project-Based Voucher Subsidy for Tax Credit Developments**

The Housing Authority may use a different tenant rent (TTP) and housing subsidy calculation for certain tax credit developments.<sup>66</sup> The TTP will be based on the applicable tax credit rent according to the unit size and target Adjusted Monthly Income (AMI) for the unit. The housing subsidy will be a fixed subsidy amount negotiated for each development. The target AMI will differ between developments but could be set at 30%, 50%, 60% AMI and/or other level.

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<sup>66</sup> The FY 2019 Moving to Work Annual Plan included Activity 27: Local Project-Based Voucher Subsidy for Tax Credit Developments. The activity changes the TTP calculation to create one based upon ~~include~~ income bands, applying a flat TTP within each income band instead of basing the calculation of TTP on gross or adjusted income. Additionally, the Housing Authority will modify the housing subsidy calculation to provide a fixed subsidy.

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At admission, applicants under this program must meet maximum income criteria for the target AMI (income tier) to qualify. The maximum income criteria is used to determine eligibility for the target AMI for the available unit. If the applicant's income exceeds the maximum income for the available unit, the applicant will be skipped until a unit within the applicable income tier becomes available. If the applicant's income exceeds the highest target AMI for the PBV units in the development, then the application will be denied.

After admission, a family may qualify for a hardship exemption if tenant rent exceeds 40% of the family's monthly income. To be eligible for hardship exemption, the family must:

- Have a rent burden greater than 40% of gross monthly income. Rent burden is calculated as the household's monthly rent portion (the applicable tax credit rent) divided by the household's gross monthly income;
- Request the hardship exemption in writing in accordance with Housing Authority policies; and
- Be in compliance with Housing Authority policies, program rules, and regulations.

A hardship exemption may be approved for the following reasons:

- The family experiences a death of a household member with income;
- Any income-earning member of the assisted family no longer remains in the unit;
- An elderly or disabled household experiences a permanent loss of income;
- Unforeseen and involuntary permanent loss of income for a family member under the age of 18;
- Unforeseen involuntary loss of employment;
- Unforeseen loss of income due to major illness as determined by a medical professional; or
- Unforeseen involuntary permanent loss of income for an adult family member who is attending high school.

### **20.11 Reasonable Accommodation Program Transfers**

In order to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities, the Housing Authority may use its available funds to relocate a family that is a current participant in the Housing Authority's public housing program, with a disabled head of household or family member, if one of the following has been determined:

- There are no public housing units to accommodate the family's household needs based on occupancy standards

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The Housing Authority is not responsible or liable to the owner or any other person for the family's behavior or suitability of tenancy.

### 20.13 Occupancy

After an applicant has been selected from the appropriate waiting list, determined eligible by the agent, owner or the Housing Authority, the family will sign the lease and occupancy of the unit will begin.

#### 20.13.1 Alternative Occupancy Standards<sup>67</sup>

Project-based voucher units are subject to HACSB's traditional occupancy standards, which are currently set at a minimum of two person per bedroom. However, in certain circumstances, HACSB will permit certain project-based units to be occupied using alternative occupancy standard of up to two persons per bedroom. This flexibility will allow a family to be over-housed by occupying a larger unit than would normally be permitted under the occupancy standards.

Example: a two-person family may lease a two-bedroom unit.

GUIDELINES FOR DETERMINING ALTERNATIVE OCCUPANCY STANDARD		
<u>Subsidy Standard</u>	<u>Minimum Persons in Household</u>	<u>Maximum Persons in Household</u>
<u>1 Bedroom</u>	<u>1</u>	<u>2</u>
<u>2 Bedrooms</u>	<u>2</u>	<u>4</u>
<u>3 Bedrooms</u>	<u>3</u>	<u>6</u>
<u>4 Bedrooms</u>	<u>6</u>	<u>8</u>
<u>5 Bedrooms</u>	<u>8</u>	<u>10</u>
<u>6 Bedrooms</u>	<u>10</u>	<u>12</u>

Prior to exercising this flexibility, HACSB and the PBV property owner/manager will enter into a written agreement which specifies the circumstances under which the alternative occupancy standards may be used, including a requirement for the owner/manager to first undertake and demonstrate a reasonable effort, as defined by HACSB, to lease the subject unit to a family using the traditional occupancy standards.

In the event that the alternative occupancy standards are applied, the HAP for the subject project-based unit will be based on the actual unit size.

<sup>67</sup> The modification to HACSB's MTW Activity 11 made through the FY 2019 MTW Plan allows the Agency to apply alternative occupancy standards only upon Housing Authority management approval.



### **20.15 Owner Termination of Tenancy [24 CFR 983.257]**

The owner of a project-based assistance unit may terminate tenancy for the same reasons as an owner may in the tenant-based program. In the project-based assistance program, terminating 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.

Per the RAD Public and Indian Housing (PIH) Notice 2012-32 Households that occupy RAD conversion units have additional protections in regard to termination of tenancy and eviction. For further protections in regard to RAD household termination of tenancy and eviction, see Chapter 20, Section 20.9.2.2.

### **20.16 Tenant Absence from the Units [24 CFR 983.256(g) and 982.312(a)]**

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by Housing Authority policy as outlined in Chapter 4 of this Administrative Plan.

### **20.17 Security Deposits [24 CFR 983.258]**

The owner may collect a security deposit from the tenant. The Housing Authority may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. When the tenant moves out of a contract unit, the owner is subject to state and local law regarding disposition of the security deposit. The Housing Authority has no liability of responsibility for payment of any amount owed by the family to the owner.

### **20.18 Moves [24 CFR 983.259, and 983.260, and 983.261]**

#### **20.18.1 Wrong Sized Unit**

If the Housing Authority determines that a family is occupying a wrong sized unit, based on the Housing Authority’s subsidy standards, or a unit with accessibility features the family does not require, and the unit is needed by a family that does require the features, the Housing Authority must promptly notify the family and the owner of this determination, and the Housing Authority must offer the family the opportunity to receive continued housing assistance in another unit through either project-based assistance in the same building or project or tenant-based assistance under the Streamline Fixed Lease Assistance program. If there is no tenant-based funding available, the family can continue to reside in the PBV unit or elect to discontinue assistance and remain on a tenant-based waiting list.

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If the Housing Authority offers the family tenant-based assistance, the Housing Authority must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's search indicated on either the Voucher or Family Obligations Agreement.

### **20.18.2 Other Moves**

After two years, a project-based voucher participant (excluding RAD PBV households) may request a tenant-based voucher to move.<sup>68</sup> ~~All other moves~~The move must be approved in accordance with the Housing Authority's Program Moves policy outlined in this Administrative Plan.

Should a household be approved to move, households residing in project-based assistance units will have automatic priority, based on funding availability. The family must contact the Housing Authority to request tenant-based assistance prior to providing notice to terminate the lease to the project-based owner. If the family is electing to move to the tenant-based voucher program, the family will be transferred to either the Streamlined Fixed Lease Assistance for Elderly/Disabled or Term-Limited Lease Assistance programs, whichever is appropriate. If the family terminates the assisted lease before the end of the contract term, the family relinquishes the opportunity for continued tenant-based assistance.

If the HAP Contract is not renewed or is terminated, residents will be offered an opportunity to move or remain in the unit with tenant-based assistance under the Streamlined Fixed Lease Assistance program.

## **20.19 Transfers**

### **20.19.1 Mandatory Transfers**

Participants will be required to make a mandatory move either within the project-based assistance community or to another project-based assistance community for the following reasons:

- Locate to another unit if the family becomes overhoused or underhoused in accordance with the Occupancy Standards described in this Administrative Plan.

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<sup>68</sup> The FY 2020 MTW Plan, Amendment 3, Activity 11: Local Project-Based Voucher Program specifies that the family must remain in a PBV unit for a minimum of 2 years before being eligible to request a tenant-based voucher.



## **CHAPTER 22: EMERGENCY OPERATIONS**

### **22. Introduction**

On January 31, 2020, Secretary of Health and Human Services Alex M. Azar II declared a public health emergency for the United States in response to an outbreak of a respiratory disease caused by a novel (new) coronavirus, "Coronavirus Disease 2019" (COVID-19). On March 13, 2020, President Trump declared the COVID-19 pandemic a national emergency. In compliance with the recommendations of the Center for Disease Control (CDC), the "stay-at-home" Executive Order issued by California Governor Gavin Newsom on March 19, 2020, and other guidance from local, state and federal agencies, HACSB took steps to reduce contact between individuals, including closing offices to the public and reducing the number of employees in the office through telework and alternative work schedules. As a result, HACSB modified some operations and deferred some functions to a later time. The revisions to the Administrative Plan implemented in response to the emergency are summarized below. The regulatory waivers provided by HUD are specific to the COVID-19 emergency and have sunset dates. The emergency provisions authorized through Amendment 2 of the FY 2020 Moving to Work Plan may be reactivated in response to any future local disaster, emergency, or crisis situation.

#### **22.1 Administrative Plan**

The following paragraph is added to Section 1.1 Purpose of the Plan:

In light of the COVID-19 emergency, HUD is temporarily waiving the requirement that any revisions to the Administrative Plan must be formally adopted by the Board of Commissioners. Any informally adopted policy revisions as result of Notice PIH 2020-05 must be formally adopted by the Board of Commissioners as soon as practical, but no later than July 31, 2020. (Waiver authority under Notice PIH 2020-05) Additionally, on April 14, 2020, the HACSB Board of Commissioners granted emergency authority to the Executive Director under Resolution No. 84 to waive policies and procedures within the Administrative Plan and to allow for implementation of policies and procedures without formal Board approval. The authorization was retroactive to March 4, 2020 and remains in effect until December 31, 2020, unless extended or rescinded by the Board.

#### **22.2 Definition of Household Members**

The following paragraph is added to Section 4.10.8 Absence of Entire Family:

During the COVID-19 emergency but no later than December 31, 2020, a family may be absent from the unit for more than 180 days due to extenuating circumstances related to the emergency, including, but not limited to, hospitalization, extended stays at nursing homes, and caring for family members. (Waiver authority under Notice PIH 2020-05)

### **22.3 Annual Income, Adjusted Annual Income and Family Share Calculation**

The following paragraphs are added to Section 6.4.7.2 Temporary Hardship Exemption: During the COVID-19 emergency, SLA families experiencing a significant loss of income as a result of the current crisis may be approved for a hardship exemption. This new hardship exemption category will follow the application, review and approval policies and procedures currently in place for other hardship categories. (Activity 22: Streamlined Lease Assistance Program, 2020 MTW Plan Amendment No. 2)

The loss of income as a result of the current crisis could include but is not limited to:

- Closure of place of work;
- Reduced hours;
- Unable to work due to lack of child care or school closure;
- Developing symptoms or being hospitalized;
- Being quarantined; or
- Caring for a sick family member.

Effective March 19, 2020, the following policies apply to the COVID-19 Hardship Exemptions:

- A COVID-19 hardship request will be accepted even if the family was already approved for another hardship exemption within the last twelve months.
- If a family has an approved hardship exemption for loss of income that is expiring between April 1 and July 31 (unless further extended), the family may request a COVID-19 hardship exemption to extend the existing hardship rent for 6 more months if they have been unable to secure new employment or secured new employment but were laid off again due to COVID-19. This “extension” will be processed as a new COVID-19 hardship exemption.
- Hardship requests for COVID-19 will be accepted for up to 60 days following the lifting of any Federal, State or County stay at home order.
- Rent adjustments will be made the 1<sup>st</sup> of the month following the date of the receipt of the written request with the exception of requests received on the 1<sup>st</sup> of the month immediately following a weekend or holiday. Those requests will be processed effective the 1<sup>st</sup> of that particular month.
- Third party written documentation of a COVID-19 related income loss will be requested. If documentation is not available, the HSS will attempt to obtain a verbal verification. If a verbal verification cannot be obtained, a tenant declaration will be accepted.

### **22.4 Family Obligations Agreement/Voucher Term**

The following paragraph is added to Section 8.2 Briefings:

During the COVID-19 emergency but no later than July 31, 2020 or HUD extension, briefings will not be conducted in-person but will be conducted via mail, video, and/or

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webcast with an accompanying conference call or one-on-one telephone call to review the briefing presentation/materials and answer questions. (Waiver authority under Notice PIH 2020-05)

The following paragraph is added to Section 8.6.1 Extensions:

During the COVID-19 emergency, the Family Obligations Agreement/Voucher will be placed on temporary suspense. The suspense period will begin March 19, 2020 and end when any state or local “stay-at-home” order is lifted or July 31, 2020, whichever is earlier. The time that elapsed during the “stay-at-home” period will be added to the voucher from the voucher expiration date or the date the “stay-at-home” order was lifted, whichever is later. Extensions beyond July 31, 2020 may be provided if circumstances involving the COVID-19 emergency change, such as reversal of reopening plan. (Waiver authority under Notice PIH 2020-05)

### **22.5 Request for Tenancy Approval & Contract Execution**

The following paragraph is added to Section 9.20 Changes in Lease or Rent:

During the COVID-19 emergency, HACSB will defer processing of rent increases to the earliest practical and feasible date. (Activity 22: Streamlined Lease Assistance Program, 2020 MTW Plan Amendment 2)

### **22.6 Inspections Standards**

The following paragraphs are added to Section 10.1.1 Initial Inspection:

During the COVID-19 emergency, HACSB will defer in-person initial HQS inspections unless a lock-box is installed at the unit. In lieu of the in-person inspection, HACSB will accept self-certification by the property owner/manager that the unit meets all HQS requirements and that there are no life-threatening deficiencies. HACSB may require photographs to accompany the self-certification for some HQS components.

For Term-Limited Lease Assistance, Streamlined Lease Assistance and Traditional Assistance for MTW Families, as soon as it is safe, feasible, and practical to do so, HACSB will conduct an in-person HQS inspection to confirm that the unit meets HQS requirements. For these families, the deferred initial HQS inspections will be prioritized for processing as soon as HACSB is able to resume processing in-person inspections. In the event that the unit does not pass the in-person HQS inspection, HACSB will follow the same policies and procedures applicable to failed biennial inspections. (Activity 13: Local Inspection Policies, 2020 MTW Plan Amendment 2)

For Traditional, Regulatory Assistance for Special Purpose Programs including VASH, HACSB will conduct the in-person inspection no later than October 31, 2020 or HUD approved extension. (Waiver authority under Notice PIH 2020-05) In the event that the unit does not pass the in-person HQS inspection, HACSB will follow the same policies and procedures applicable to failed biennial inspections.

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For HOPWA and CoC programs, an in-person inspection will be conducted no later than three (3) months after health officials determine special measures to prevent the spread of COVID-19 are no longer necessary. (Waiver authority under HUD CPD Memorandum dated March 31, 2020)

The following paragraph is added to Section 10.1.2 Annual and Biennial Inspections: During the COVID-19 emergency, HACSB will postpone in-person annual and biennial HQS inspections. For Term-Limited Lease Assistance, Streamlined Lease Assistance, and Traditional Assistance for MTW families, HACSB may extend the validity of a family's most recently completed biennial HQS inspection by one year. The due date of the family's next biennial HQS inspection will be one year from the original due date. (Activity 13: Local Inspection Policies, 2020 MTW Plan Amendment 2)

For Traditional, Regulatory Assistance for Special Purpose Programs including VASH, the annual or biennial inspection will be postponed until it is safe to resume in-person inspections but no later than October 31, 2020 or HUD approved extension. (Waiver authority under Notice PIH 2020-05)

For the CoC and HOPWA programs, the in-person inspection will be conducted no later than three (3) months after health officials determine special measures to prevent the spread of COVID-19 are no longer necessary. (Waiver authority under HUD CPD Memorandum dated April 1, 2020)

The following paragraph is added to Section 10.1.3 Reinspection: During the COVID-19 emergency, HACSB will not conduct in-person reinspections. In lieu of the in-person reinspection, HACSB will accept a certification of repairs from the tenant and owner along with photographs, invoices, or receipts to document the completion of the repairs requested by HACSB. No in-person reinspections will be conducted at a later date to confirm the repairs. (24 CFR 982.405 does not require in-person confirmatory reinspections)

The following paragraph is added to Section 10.1.4 Special/Complaint Inspections: During the COVID-19 emergency but no later than July 31, 2020 or HUD approved extension, HACSB will not conduct in-person special/complaint inspections. In lieu of the in-person inspection, HACSB will notify the owner of the deficiencies, and the owner must either correct the deficiencies with 30 days or 24 hours for life threatening deficiencies or provide documentation that the reported deficiency does not exist. HACSB will accept a certification along with photographs or other documentation to support the correction of the deficiencies. (Waiver authority under Notice PIH 2020-05)

The following paragraph is added to Section 10.1.5 Quality Control Inspections:

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During the COVID-19 emergency and through the remainder of the Fiscal Year, HACSB may not conduct in-person HQS Quality Control Inspections. Quality Control Inspections will resume at the start of the new Fiscal Year (October 1, 2020) or when it is determined to be safe to do so. (Waiver authority under Notice PIH 2020-05)

### **22.7 Owner Rents, Rent Reasonableness and Payment Standards**

The following paragraph is added to Section 11.5.1 Term-Limited Lease Assistance, Transitional Assistance for MTW Families, and Veterans Affairs Supportive Housing (VASH) Programs:

The Local Payment Standards will be updated each fiscal year unless extenuating circumstances prevent the update from taking place. In the event of a delay, HACSB will update the Local Payment Standards as soon as circumstances permit. (Activity 12: Local Payment Standards and Alternative Flat Rents, 2020 MTW Plan Amendment No. 2)

The following paragraph is added to Section 11.6 Rent to Owner Increases:

During the COVID-19 emergency, HACSB will defer processing of rent increases to the earliest practical and feasible date. (Activity 22: Streamlined Lease Assistance Program, 2020 MTW Plan Amendment 2)

### **22.8 Recertifications**

The following paragraph is added to Section 12.1.1 Term-Limited Lease Assistance:

Due to the COVID-19 emergency, HASCB may extend the validity of a family's most recently completed biennial or triennial recertification by one year. The due date of the family's next biennial recertification will be one year from the original due date, and future recertifications will follow the biennial schedule. (Activity 4: Biennial and Triennial Recertifications, 2020 MTW Plan Amendment No. 2)

The following paragraph is added to Section 12.1.2 Streamlined Lease Assistance, Transitional Assistance for MTW Families and Veterans Affairs Supportive Housing (VASH) Programs:

Due to the COVID-19 emergency, HASCB may extend the validity of a family's most recently completed biennial or triennial recertification by one year. The due date of the family's next biennial or triennial recertification will be one year from the original due date, and future recertifications will follow the biennial/triennial schedule. (Activity 4: Biennial and Triennial Recertifications, 2020 MTW Plan Amendment No. 2)

The following paragraph is added to Section 12.9.5 Traditional, Regulatory Assistance for Special Purpose Programs:

During the COVID19 emergency, zero HAP families whose six month grace period is ending between April 1, 2020 and September 30, 2020 will be granted a six month extension up to December 31, 2020. (Waiver authority under Notice PIH 2020-05)



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The following paragraph is added to Section 12.10.1 Hardship Exemption of Over-Income Families:

During the COVID-19 emergency, HACSB will extend the grace period for another six months for over-income families whose end of term is scheduled between April 1, 2020 and September 30, 2020. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher, 2020 MTW Plan Amendment No. 2)

### **22.9 Contract Terminations**

The following footnotes are added to Section 14.3 Termination of the Contract by the Housing Authority:

(1) During the COVID-19 emergency but no later than December 31, 2020, a family may be absent from the unit for more than 180 days due to extenuating circumstances related to the emergency, including, but not limited to, hospitalization, extended stays at nursing homes, and caring for family members. (Waiver authority under Notice PIH 2020-05)

(2) During the COVID-19 emergency, over-income SLA, TLA, and MTW families scheduled to expire between April 1 and September 30, 2020 will be extended six months. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher Families, 2020 MTW Plan Amendment No. 2) Zero HAP Contracts for all other programs will be extended six months but such extensions shall not extend beyond December 31, 2020. (Waiver authority under Notice PIH 2020-05)

### **22.10 Termination of Assistance and Informal Hearing Policies**

The following paragraph is added to Section 16.2.2.1 Term-Limited Lease Assistance Program:

During the COVID-19 emergency, the end of term (EOT) for any TLA participant with an EOT or extension EOT scheduled to occur between April 1 and September 30, 2020, will be delayed by six months. This timeframe may be extended to comply with local, state, and federal guidance/requirements surrounding the current crisis (Activity 20: Term-Limited Lease Assistance, 2020 MTW Plan Amendment No. 2)

The following paragraph is added to Section 16.2.2.1.5 Total Term of Assistance:

During the COVID-19 emergency, the end of term (EOT) for any TLA participant with an EOT or extension EOT scheduled to occur between April 1 and September 30, 2020, will be delayed by six months. The seven (7) year limitation on assistance is lifted for COVID-19 extensions only. (Activity 20: Term-Limited Lease Assistance, 2020 MTW Plan Amendment No. 2)

### **22.11 Portability**

The following paragraph is added to Section 19.5 Incoming Portability Families:

During the COVID-19 emergency, HACSB temporarily suspended acceptance of Housing Choice Voucher Program port-ins (excluding VASH) from other housing authorities

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effective April 9, 2020. HACSB will resume processing of incoming portability requests as soon as it is safe, feasible, and practical to do so. (Activity 8: Local Policies for Portability, 2020 MTW Plan Amendment No. 2)

### **22.12 Project-Based Assistance Program**

The following paragraphs are added to Section 20.4.2 Turnover Inspections: During the COVID-19 emergency, HACSB will defer in-person PBV unit turnover HQS inspections unless a lock-box is installed at the unit. In lieu of the in-person inspection, HACSB will accept self-certification by the family and property owner/manager that the unit meets all HQS requirements and that there are no life-threatening deficiencies. HACSB will require photographs to accompany the self-certification for some HQS components.

For Term-Limited Lease Assistance, Streamlined Lease Assistance and Traditional Assistance for MTW Families, as soon as it is safe, feasible, and practical to do so, HACSB will conduct an in-person HQS inspection to confirm that the unit meets HQS requirements. For these families, the deferred initial HQS inspections will be prioritized for processing as soon as HACSB is able to resume processing in-person inspections. In the event that the unit does not pass the in-person HQS inspection, HACSB will follow the same policies and procedures applicable to failed biennial inspections. (Activity 13: Local Inspection Policies, 2020 MTW Plan Amendment 2)

For VASH PBV, HACSB will conduct the in-person inspection no later than October 31, 2020 or HUD approved extension. (Waiver authority under Notice PIH 2020-05) In the event that the unit does not pass the in-person HQS inspection, HACSB will follow the same policies and procedures applicable to failed biennial inspections.

The following paragraph is added to Section 20.4.3 Annual Inspections: During the COVID-19 emergency, HACSB will postpone in-person PBV annual HQS inspections. The annual inspection will be postponed until it is safe to resume in-person inspections but no later than October 31, 2020 or HUD approved extension. (Waiver authority under Notice PIH 2020-05)

The following paragraph is added to Section 20.6.2 Determining Contract Rent to Owner: During the COVID-19 emergency, HACSB will defer processing of rent increases to the earliest practical and feasible date. (Activity 22: Streamlined Lease Assistance Program, 2020 MTW Plan Amendment 2)

The following paragraph is added to Section 20.7.2.1 No Child Left Unsheltered (NCLU): During the COVID-19 emergency, supportive services provided to NCLU families may be reduced and/or deferred based on the availability and ability of HACSB staff and partners to provide those services. Services will resume as soon as it is safe, feasible, and practical

# Housing Authority of the County of San Bernardino

## Housing Services Program Administrative Plan

Revised: ~~March~~July 2020

to do so. (Activity 23: No Child Left Unsheltered (NCLU), 2020 MTW Plan Amendment No. 2)

### **20.13 Homeownership Program**

The following paragraph is added to Section 21.7 Home Inspections, Contract Of Sale, and Housing Authority Disapproval of Seller:

During the COVID-19 emergency but no later than July 31, 2020 or HUD approved extension, HACSB will conduct the HQS inspection if the home is vacant and a lock box is provided. Otherwise, HACSB will review the independent inspection and may disapprove the unit if information in the inspection report lists HQS violations. (Waiver authority under Notice PIH 2020-05)



### Summary of Proposed Administrative Plan Changes, July 2020

Section	Topic	Change
1.5.2	Housing Services Program Types	In Chapter 1, a separate program type for Mainstream Vouchers was added and Mainstream 5 was removed from the traditional, regulatory assistance for special purpose programs category. HACSB's MTW activities now apply to both the Mainstream 811 and Mainstream 5 programs.
1.10	Interpretation and Document Translation	The section concerning language interpretation and translation was updated to include that HASCB provides bilingual staff and telephonic language services.
2.1.2	Project-Based Assistance	The section about project-based assistance was updated to include general information about current project-based communities designated for homeless or special need populations.
2.1.3.1	Special Purpose Program Admissions	To ensure program compliance, the special purpose program admission section was reworked to include only MTW activities with HUD-approved special admissions criteria and special purpose rental assistance programs. Special purpose programs have specific eligibility criteria as indicated in the federal, state or local requirements.
2.1.3.1.2	Referral-Based Special Purpose Programs	A Referral-Based Special Purpose section was added to the Plan in order to list programs, where admissions are based on referrals instead of a waiting list, such as CoC, HOPWA, VASH, and others.
2.1.3.1.3	Moving to Work Activities	A Moving to Work Activities section was added to distinguish special admissions under HUD-approved MtW activities from special purpose program admissions.
2.1.3.2	HUD Special Admissions (non-waiting list)	To ensure program compliance, the HUD Special Admissions section was revised to include only special admission categories specified in the HUD regulations.
2.2.5.2	Family Unification Program	The section was revised to comply with HUD guidance related to the waiting list admissions for the Family Unification Program.
2.2.8.3.2	Mainstream Program Preference	The Mainstream Voucher Program preference section was revised to limit the Mainstream Voucher Program preferences to the lesser of ten (10) vouchers or Mainstream Voucher turnover per year. Without this limitation, the Mainstream preferences would apply to the entire waiting list per HUD notice PIH 2020-01. The homeless and at risk definitions were deleted from this section, because the HACSB adopted use of the HUD definitions from the 2019 Mainstream Notice of Funding Availability.

<b>Section</b>	<b>Topic</b>	<b>Change</b>
2.2.8.3.3	Other Preferences	The non-HUD special admissions categories were moved from the Special Admissions section to a newly created “other preferences” section based upon HUD regulations governing the waiting list. The “other preferences” are for programs or categories of admissions that are not eligible for special admissions and must be pulled from the waiting list. The admissions criteria for the NCLU and Involuntary Displacement were added.
3.1	Eligibility Factors and Requirements	Language was added prohibiting admission to the same program or PBV development by a current participant of that program/development. For example, a term-limited family cannot be admitted to the term-limited program, while still a participant of the program.
3.11.2.1	Mainstream Vouchers	The Mainstream Voucher Program was added to Streamlined Fixed Lease Assistance Program.
3.11.6.3	Mainstream 5 Program	The Mainstream 5 program section was revised to describe the transition of Mainstream 5 participants to Streamlined Fixed Lease Assistance.
4.10.6	Absences Due to Incarceration	An extra step in the termination process was added to provide a 30-day notice of termination after a sole member has been incarcerated for more than 30 consecutive days. This step provides the tenant and owner with proper notice.
4.10.8	Absence of Entire Family	An extra step was added in the termination process to provide a 30-day notice of termination after an entire family has been absent from the unit for more than 30 consecutive days. This step provides the family and owner with property notice.
5.1	Determination of Subsidy Standard	There is no change in policy. The section was revised to clarify differences in Subsidy Standards for MTW programs, traditional programs, and project-based voucher program.
6.4.7	Hardship Exemption Criteria for Streamlined Lease Assistance Programs	Under current policy, if the employment loss is not reported within 60 days, the hardship request is denied. The proposed revision provides that a request for a temporary hardship exemption must be received 60 days after the most recent change in circumstances. This will permit consideration of hardship requests received after 60 days of a first occurrence such as loss of employment but later reported within 60 days of loss of unemployment benefits. Additionally, those eligible for permanent hardship exemptions must request the hardship by the next annual recertification. (Continued on next page)

<b>Section</b>	<b>Topic</b>	<b>Change</b>
6.4.7	Hardship Exemption Criteria for Streamlined Lease Assistance Programs	(Continuation of previous page) The reason for this change is to assist families who try to continue to pay the higher rent with unemployment benefits or lump sum payments and wait until these resources are exhausted before requesting a hardship exemption.
6.4.7.1	Permanent Hardship Exemption	There was no change in policy. The minor revision corrects the income percentage used to calculate the new monthly rent share to accurately reflect the available rent calculation methods
6.4.7.2	Temporary Hardship Exemption	<p>Under current policy, extensions of temporary hardship exemptions are not provided. However, in some cases, residents are unable to return to work after 6 months due to health reasons and do not qualify for a permanent hardship exemption as an individual with disabilities. The proposed change provides that the hardship exemption period can be extended another 6 months if the length of the illness exceeds the initial 6 month hardship exemption period.</p> <p>In order to qualify for a temporary or permanent hardship, all current income sources must be updated in the family's file. Because a family is not required to report interim income changes, the family's income sources can change multiple times between recertifications and not be current when a qualifying hardship occurs. The proposed language provides that the source of income to be removed under the hardship exemption may differ from the reported income change.</p>
7.3.1	General Verification Policies for Continued Assistance for MTW Programs	Currently, the Housing Authority will require a third party verification if there is a discrepancy of \$300 per month or more between the EIV/UIV system and the documents provided by the household. The discrepancy amount was changed from \$300 to \$200 to align with HUD requirements stated in PIH Notice 2018-18.
7.11.2	Child Care Expenses Allowance for Transitional Assistance for MTW Families and Traditional, Regulatory Assistance for Special Purpose Programs	Under HUD regulations governing traditional, regulatory assistance, the Housing Authority is required to set a standard of reasonableness for child care expenses. Staff is proposing to use the State of California's Regional Market Rate Survey of Child Care Providers as the standard and cap the family's child care allowance at the standard rate.
10.1.3	Reinspection	The section was updated to be consistent with current practice of accepting a self-certification of repairs in place of conducting a reinspection under certain circumstances.
10.2.3	Extension for Repairs	This section was added to describe the circumstances in which an owner may be granted an extension to make requested repairs.

<b>Section</b>	<b>Topic</b>	<b>Change</b>
10.3	Determination of Responsibility	Clarifying language was added that the owner is not responsible for tenant supplied appliances under Housing Quality Standards.
12.8.2.1	Changes in Income, Term-Limited Lease Assistance and Streamlined Tiered Lease Assistance Programs	A reference to the hardship exemption policy was added to this section.
12.8.2.2	Changes in Income, Streamlined Fixed Lease Assistance Program	This section was updated to remove outdated language concerning the circumstances in which a hardship exemption will be processed and referenced hardship exemption section.
13.2	Elective Moves	<p>New language was added to explain that the tenant can initiate a move through a written notice to the landlord or a mutual rescission of the lease, and the tenant can elect to move at any time after the term of the lease has ended.</p> <p>Also, the section was revised to clarify that family must obtain written authorization from the owner to break the lease even if the family is approved to move as a reasonable accommodation.</p>
16.6.8	Housing Authority Notice of Final Decision	The section was updated to add that the Executive Director or designee is authorized to declare that the Housing Authority is not bound by a hearing decision under certain circumstances. Previously, the section did not indicate who would make the decision.
18.1	Family Debts to the Housing Authority	The referral of fraud cases resulting in an overpayment of \$5,000 or more to the Office of Inspector General (OIG) was removed, because the OIG usually does not handle low level fraud cases. Where appropriate, the Housing Authority will refer the case for criminal prosecution, which could include referral to the OIG.
18.1.1	Repayment Agreements	<p>Language was removed from this section concerning circumstances in which a repayment agreement will not be pursued. In all cases, the Housing Authority will pursue a repayment agreement.</p> <p>Based on HUD guidance, the section specifies that the rent plus the monthly repayment amount cannot exceed 40% of the household's gross monthly income.</p>
20.1	General Requirements	The update is to the provisions in the project-based voucher program allowing 30% of baseline units to be project-based (consistent with MTW Plan) and for contract terms of up to 20 years (consistent with HUD regulations).

<b>Section</b>	<b>Topic</b>	<b>Change</b>
20.1.1	Allocation Thresholds and Supportive Services Requirements	Updates the regulatory cap to the greater of 25% or 25 units that can be project based in a building. However, the regulatory cap does not apply to the HACSB due to an approved MTW activity but is referenced in this section.
20.6	Housing Assistance Payments Contract	The revision updates contract term from 15 to 20 years in accordance with HUD regulations.
20.7.1	Project-Based Communities Designated for Elderly Households	A section for project-based communities designated for elderly was added.
20.7.2	Project-Based Communities for Special Needs	A section for project-based communities for special needs was added to describe the referral based waiting list process.
20.7.2.1	No Child Left Unsheltered	A section was to describe the project-based communities designated for No Child Left Unsheltered (NCLU) families.
20.7.2.2	Veteran Program	A section for Northgate Village units which are designated for homeless veterans who are not eligible for Veterans Administration (VA) services was added.
20.9.2	Rental Assistance Demonstration Conversions	Language was added to clarify that extension of rights to PBV residents living in RAD converted properties do not apply to PBV households who are not living in RAD converted properties.
20.9.2.2	Termination of Tenancy for RAD Conversion Units	Language was added to specify that the termination of tenancy and eviction protections must be included in the owner's lease per RAD requirements.
20.10	Local Project-Based Voucher Subsidy for Tax Credit Developments	A section was added for implementation for Moving to Work Activity #27 for the Local Project-Based Voucher Subsidy for Tax Credit Developments.
20.13.1	Alternative Occupancy Standards	The Alternative Occupancy Standards table from section 5.1 was moved to the project-based program chapter.
20.18	Moves	This section was separated into subsections 20.18.1 (Wrong Sized Units) and 20.18.2 (Other Moves) and details were added concerning when participants will be placed in the appropriate tenant-based program.
22	Chapter 22: Emergency Operations	A new chapter was added to summarize the temporary policies in place for emergencies and HUD waivers implemented to respond to the COVID-19 emergency.

# **REPORT/RECOMMENDATION TO THE SAN BERNARDINO COUNTY BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**July 14, 2020**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Revisions to the Admissions and Continued Occupancy Plan Governing the Housing Authority of the County of San Bernardino's Public Housing Program

## **RECOMMENDATION(S)**

Adopt Resolution No. 90 approving revisions to the Admissions and Continued Occupancy Plan governing the Housing Authority of the County of San Bernardino's Public Housing program.  
(Presenter: Maria Razo, Executive Director, 332-6305)

## **GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**HACSB communication is open, honest and consistent.**

**HACSB clients, programs, and properties are embraced by all communities.**

**HACSB clients live in safe and desirable homes and communities where they can develop and prosper.**

## **FINANCIAL IMPACT**

Approval of the proposed revisions to the Admissions and Continued Occupancy Plan (ACOP) will not have a material net financial impact to the Housing Authority of the County of San Bernardino's (HACSB) annual budget.

## **BACKGROUND INFORMATION**

HACSB's Public Housing ACOP outlines the adopted policies that govern the Public Housing program. The Public Housing program provides subsidized housing through properties owned by HACSB in collaboration with the United States Department of Housing and Urban Development (HUD). The ACOP is required of all housing authorities administering a Public Housing program and is reviewed and updated as needed to maintain compliance with Public and Indian Housing Notices, Federal Register Notices as issued by HUD, and HACSB's Moving to Work activities.

The primary reason for updating the ACOP at this time is to implement emergency operations under COVID-19. Attached is a table summarizing the proposed revisions along with the corresponding pages being revised within the ACOP.

To ensure alignment with HUD regulations and HACSB's Moving to Work Annual Plan, it is recommended the Board of Commissioners adopt the resolution to approve the proposed changes to the ACOP.

## **PROCUREMENT**

Not applicable

Revisions to the Admissions and Continued Occupancy Plan Governing the Housing Authority of the County of San Bernardino's Public Housing Program.  
July 14, 2020

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 25, 2020.

**HOUSING AUTHORITY RESOLUTION NO. 2020-90**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE  
COUNTY OF SAN BERNARDINO APPROVING REVISIONS TO THE ADMISSIONS AND  
CONTINUED OCCUPANCY PLAN GOVERNING THE HOUSING AUTHORITY OF THE COUNTY  
OF SAN BERNARDINO'S PUBLIC HOUSING PROGRAM**

**RECITALS**

**WHEREAS**, the Housing Authority of the County of San Bernardino (HACSB) is required to maintain an Admissions and Continued Occupancy Plan (ACOP) which outlines regulations necessary to administer the Public Housing program on behalf of the United States Department of Housing and Urban Development (HUD); and

**WHEREAS**, HUD requires public housing agencies to amend their ACOP to incorporate changes and define policy relative to administration of the Public Housing program; and

**WHEREAS**, HACSB desires to amend its policies and procedures as they relate to emergency operations under COVID-19.

**OPERATIVE PROVISIONS**

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY  
OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:**

Section 1. The Board of Commissioners finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board of Commissioners hereby approves the revisions to the ACOP governing the Housing Authority of the County of San Bernardino's Public Housing program, attached hereto as Exhibit "A" and incorporated by reference herein.

Section 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES: COMMISSIONER:

NOES: COMMISSIONER:

ABSENT: COMMISSIONER:

STATE OF CALIFORNIA                     )  
  )  
COUNTY OF SAN BERNARDINO        )       ss.

I, \_\_\_\_\_, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, \_\_\_\_\_, 20\_\_.



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Secretary

By 

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Deputy

## Housing Authority of the County of San Bernardino

### Affordable Housing Programs ACOP

Revised: July 2020

**November 2018**

#### 5.3.4.1 Permanent Hardship Exemptions

A permanent hardship exemption may be approved for the following reasons:

- the family experiences a death of a household member with income;
- any income-earning member of the assisted family no longer remains in the unit;
- ☐ An elderly or disabled household experiences a permanent loss of income.
- Unforeseen and involuntary permanent loss of income for a family member under the age of 18.

If a permanent hardship exemption has been approved, HACSB will reset the family's previous highest rent share (the "baseline rent") by recalculating the family's income and applying the applicable rent percentage. For example, for families participating in the Streamlined Fixed Lease Assistance for Elderly/Disabled Families program, the new monthly income will be multiplied by twenty-four percent (24%) to determine the new monthly rent share. For families participating in the Streamlined Tiered Lease Assistance for Career-Focused Families program, the new monthly income will be multiplied by the most recent tiered rent percentage established at recertification to determine the new monthly rent share.

#### 5.3.4.2 Temporary Hardship Exemptions

HACSB also recognizes that certain hardships may exist on a temporary basis. The temporary relief that HACSB will offer families depends on the type of hardship being experienced by the family. Families initially leasing under the Streamlined Lease Assistance Program may qualify for a temporary hardship exemption upon verification that the family has no household income. No more than one temporary hardship exemption may be requested within a 12 month period. The table below describes each type of temporary hardship exemption that may be approved by the Housing Authority.

Temporary Hardship Reason	Temporary Hardship Exemption Relief
Unforeseen involuntary loss of employment or unforeseen loss of income due to major	Family's income will be recalculated and for 6 months the family's rent will be based upon most recent percentage established at recertification or the minimum rent, whichever is higher. HACSB will provide a 60 day notice that the rent will
illness as determined by a medical professional.	revert to the previous rent amount at the end of the 6 months. The family's income will not be re-reviewed until the next recertification. <u>The 6 month exemption period can be extended</u>

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	<u>another 6 months if the length of the illness is longer than the initial 6 months.</u>
Significant medical expenses over \$2,500 for single medical event for Streamlined Fixed families only.	Family's income will be recalculated at a 5% reduction to the fixed percentage and for 6 months the family's rent will be based upon that percentage or the minimum rent, whichever is higher.
Unforeseen involuntary permanent loss of income for an adult family member who is attending high school.	Family's income will be recalculated and for 6 months the family's rent will be based upon most recent percentage established at recertification or the minimum rent, whichever is higher. HACSB will provide a 60 day notice that the rent will revert to the previous rent amount at the end of the 6 months. The family's income will not be re-reviewed until the next recertification.

If the temporary hardship is due to loss of income, the income of the family member, who experienced the income loss, will be removed from the family income, and the rent amount will be based on the remaining family income. Because the family is not required to report interim income changes, the source of income to be removed under the hardship exemption may differ from the reported income change. At the end of the six month exemption period, the income that had been removed will be added back to the family income and will not be recalculated.

For example, the last reported income may have been self-employment of \$1,000 per month. However, since the last recertification the family member ended self-employment and started receiving a regular wage of \$2,000 per month. This interim change was not required to be reported by the family. Now, the family is reporting an unforeseen involuntary loss of employment. The hardship exemption would remove the \$1,000 per month self-employment from the family income, and after six months the \$1000 would be added back to the family income.

### 5.3.4.3 Pre-Implementation Hardship Exemptions

Prior to implementation of the Streamlined Lease Assistance programs, HACSB conducted a detailed data analysis. As part of that data analysis, certain households were determined to be likely to experience a disproportionate impact as the result of the implementation. This temporary hardship exemption would allow the family to maintain their previous total family rent share for up to six (6) months. HACSB would send a sixty (60) day notice that the family would be subject to the new streamlined calculation at the

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does not apply to elderly and/or disabled households and households participating in the HACSB Homeownership Program.

During the COVID-19 emergency, over-income SLA, MTW families scheduled to expire between April 1 and September 30, 2020 will be extended six months. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher Families, 2020 MTW Plan Amendment No. 2).

### ***8.4.1 Hardship Exemption for Over-Income Families***

If a family in the six (6) month transition period reports a loss of income that results in the family's income falling below the 80% area median income for the family size, the family may qualify for a hardship exemption. To be eligible for a hardship exemption, the family's income must have decreased due to a no fault loss of income or the death of a household member with income. If an exemption is granted, the family will be removed from the six (6) month transition period.

If the family's income increases to exceed 80% of the area median income for the family size after a hardship exemption is granted, the family will be given another six (6) month transition period. The transition period will not be reduced or prorated based upon the duration of any previous transition period(s).

This hardship exemption shall apply to any family in the six (6) month transition period, regardless of assistance type (i.e.: Streamlined Fixed or Tiered Lease Assistance, Transitional Assistance for MTW Families, etc.)

During the COVID-19 emergency, over-income SLA, MTW families scheduled to expire between April 1 and September 30, 2020 will be extended six months. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher Families, 2020 MTW Plan Amendment No. 2).

he HACSB at the development where the family was residing, and will contain the following information:

- Name of resident, number and identification of unit occupied
- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently
- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

### **12.8 Informal Settlement Conference<sup>1</sup>**

HACSB has an informal settlement conference procedure in place where residents of affordable housing are provided an opportunity to grieve any HACSB action or failure to act involving the lease or HACSB policies which adversely affect their rights, duties, welfare, or status. The HACSB informal settlement conference procedure will be incorporated by reference in the resident lease.

During the COVID-19 emergency, HACSB has the option to conduct remote meetings through different contactless methods such as conference call, video or other methods available. (Activity 18: Property Management Innovation, 2020 MTW Plan Amendment #2).

**12.8.1 Notification and Comment Incorporation Requirements [24 CFR 966.52]** The HACSB must provide at least 30 days' notice to residents and resident organizations setting forth proposed changes in the HACSB informal settlement conference procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the HACSB before adoption of any changes by the HACSB.

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<sup>1</sup> The FY 2011 Moving to Work Annual Plan included Activity 18: Property Management Innovation which provide flexibility regarding the grievance procedure.

Residents and resident organizations will have 30 calendar days from the date they are notified by the HACSB of any proposed changes to submit written comments to the

### ***12.8.3 Applicability [24 CFR 966.51]***

Potential grievances could address most aspects of a HACSB's operation. However, there are some situations for which the informal settlement conference procedure is not applicable.

The informal settlement conference procedure is applicable only to individual resident issues relating to the HACSB. It is not applicable to disputes between residents not involving the HACSB. Class grievances are not subject to the informal settlement conference procedure and it is not to be used as a forum for initiating or negotiating policy changes of the HACSB.

HACSB will grant the opportunity for an informal settlement conference for all lease terminations, regardless of cause, but may use expedited procedures for certain terminations. The HACSB will follow expedited informal settlement conference procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the HACSB, or any drug-related criminal activity on or near such premises.

### ***12.8.4 Request for Informal Settlement Conference [24 CFR 966.54]***

The HACSB will accept requests for an informal settlement conference either orally or in writing, to the HACSB office within 5 business days of the grievable event. Within 5 business days of receipt of the request the HACSB will arrange a meeting with the resident at a mutually agreeable time and confirm such meeting in writing to the resident.

During the COVID-19 emergency, HACSB has the option to conduct remote meetings through different contactless methods such as conference call, video or other methods available. (Activity 18: Property Management Innovation, 2020 MTW Plan Amendment #2).

If a resident fails to attend the scheduled meeting without prior notice, the HACSB will reschedule the appointment only if the resident can show good cause for failing to appear, 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.

## **CHAPTER 14: EMERGENCY OPERATIONS**

### **14. Introduction**

On January 31, 2020, Secretary of Health and Human Services Alex M. Azar II declared a public health emergency for the United States in response to an outbreak of a respiratory disease caused by a novel (new) coronavirus, "Coronavirus Disease 2019" (COVID-19). On March 13, 2020, President Trump declared the COVID-19 pandemic a national emergency. In compliance with the recommendations of the Center for Disease Control (CDC), the "stay-at-home" Executive Order issued by California Governor Gavin Newsom on March 19, 2020, and other guidance from local, state and federal agencies, HACSB took steps to reduce contact between individuals, including closing offices to the public and reducing the number of employees in the office through telework and alternative work schedules. As a result, HACSB modified some operations and deferred some functions to a later time. The revisions to the Admissions and Continued Occupancy Policies (ACOP) implemented in response to the emergency are summarized below. The regulatory waivers provided by HUD are specific to the COVID-19 emergency and have sunset dates. The emergency provisions authorized through Amendment 2 of the FY 2020 Moving to Work Plan may be reactivated in response to any future local disaster, emergency, or crisis situation.

#### **14.1 ACOP**

The following paragraph is added to Section 1.1 Purpose of the Plan:

In light of the COVID-19 emergency, HUD is temporarily waiving the requirement that any revisions to the ACOP must be formally adopted by the Board of Commissioners. Any informally adopted policy revisions as result of Notice PIH 2020-05 must be formally adopted by the Board of Commissioners as soon as practical, but no later than July 31, 2020. (Waiver authority under Notice PIH 2020-05) Additionally, on April 14, 2020, the HACSB Board of Commissioners granted authorization under Resolution No. 84 for the Executive Director to waive internal policies and modify operations as necessary in response to COVID-19 global pandemic, retroactive to March 4, 2020 and remains in effect until December 31, 2020, unless extended or rescinded by the Board.

#### **14.2 Income and Rent Determinations**

The following paragraphs were added to Section 5.3.4.2 Temporary Hardship Exemption:

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Affordable Housing Programs ACOP

Revised: ~~November~~

~~2018~~ July 2020

During the COVID-19 emergency, SLA families experiencing a significant loss of income as a result of the current crisis may be approved for a hardship exemption. This new hardship exemption category will follow the application, review and approval policies and procedures currently in place for other hardship categories. (Activity 22: Streamlined Lease Assistance Program, 2020 MTW Plan Amendment No.2)

The loss of income as a result of the current crisis could include but is not limited to:

- Closure of place of work;
- Reduced hours;
- Unable to work due to lack of child care or school closure;
- Developing symptoms or being hospitalized;
- Being quarantine; or
- Caring for a sick family member.

Effective March 19, 2020, the following policies apply to the COVID-19 Hardship Exemptions:

- A COVID-19 hardship request will be accepted even if the family was already approved for another hardship exemption within the last twelve months.
- If a family has an approved hardship exemption for loss of income that is expiring between April 1 and July 31, 2020 (unless further extended), the family may request a COVID-19 hardship exemption to extend the existing hardship rent for an additional 6 months if they have unable to secure new employment or secured new employment but were laid off again due to COVID-19. This “extension” will be processed as a new COVID-19 hardship exemption.
- Hardship requests for COVID-19 will be accepted for up to 60 days following the lifting of any Federal, State or County stay at home order.
- Rent adjustments will be made the 1<sup>st</sup> of the month following the date of the receipt of the written request with the exception of requests received on the 1<sup>st</sup> of the month immediately following a weekend or holiday. Those requests will be processed effective the 1<sup>st</sup> of that particular month.
- Third party written documentation of a COVID-19 related income loss will be requested. If documentation is not available, the AHS will attempt to obtain a verbal verification. If a verbal verification cannot be obtained, a tenant declaration will be accepted.



### **14.3 Recertifications**

The following paragraph is added to Section 8.4 Over-income Families:

(1) During the COVID-19 emergency, over-income SLA, Tiered Lease Assistance and Transitional assistance for MTW families scheduled to expire between April 1 and September 30, 2020 will be extended six months. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher Families, 2020 MTW Plan Amendment No. 2)

The following paragraph is added to Section 8.4.1 Hardship Exemption for Over-Income Families:

(2) During the COVID-19 emergency, HACSB will extend the grace period for another six months for over-income families whose end of term is scheduled between April 1, 2020 and September 30, 2020. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher, 2020 MTW Plan Amendment No. 2).

### **14.4 Lease Terminations and Informal Settlement Conference**

The following paragraph is added to Section 12.8 Informal Settlement Conference:

(1) During the COVID-19 emergency, HACSB has the option to conduct remote meetings through different contactless methods such as conference call, video or other methods available. (Activity 18: Property Management Innovation, 2020 MTW Plan Amendment #2).

The following paragraph is added to Section 12.8.4 Request for Informal Settlement Conference (24CFR 966.54):

(2) During the COVID-19 emergency, HACSB has the option to conduct remote meetings through different contactless methods such as conference call, video or other methods available. (Activity 18: Property Management Innovation, 2020 MTW Plan Amendment #2).

## Summary of Proposed Admissions and Continued Occupancy Policy Changes      July 2020

Item #	Section	Topic	Change
1	5.3.4	Hardship Exemption Criteria for Streamlined Lease Assistance Program	Under this policy, the request for hardship exemption must come no later than 60 days after the change in circumstances, otherwise the request is denied if it is received after the 60 days. The proposed revision provides that a request for a temporary hardship exemption must be received within 60 days after the <i>most recent</i> change in circumstances. This will allow consideration of hardship requests received after 60 days of a first occurrence such as loss of employment but later reported within 60 days of loss of unemployment benefits.
2	5.3.4.2	Temporary Hardship Exemptions	Under the current policy, extensions of temporary hardship exemptions are not provided. However, in some cases participants are unable to return to work after 6 months due to health reasons and do not qualify for a permanent hardship exemption as an individual with disabilities. The proposed change provides that the hardship exemption period can be extended another 6 months if the length of the illness exceeds the initial 6 month hardship exemption period.
3	12.8	Informal Settlement Conference	Under this current policy, the meeting between HACSB and the resident does not provide HACSB the option for remote meetings using (conference call, video or other available contactless methods). Under the proposed revision, it will provide the option for remote meetings as part of the (2020 MTW Plan Amendment #2 Emergency Operations (COVID-19), #18 Property Management Innovation)
4	12.8.4	Request for Informal Settlement Conference (24 CFR 966.54)	No change to policy. The paragraph below was added in new Chapter 13: Emergency Operations to address the option for remote meetings. During the COVID-19 emergency, HACSB has the option to conduct remote meetings through different contactless methods such as conference call, video or other methods available. (Activity 18: Property Management Innovation, 2020 MTW Plan Amendment #2).

5	8.4	Over-income Families	Under the current policy, the additional six (6) month extension after the termination date is not allowed. Under the proposed revision a six (6) month extension due to COVID-19 emergency will be granted for any family whose six-month transition period is scheduled to end between 4/1/20 and 9/30/20. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher Families, 2020 MTW Plan Amendment #2).
6	8.4.1	Hardship Exemption for Over-Income Families	No change to this policy. The paragraph below was added in new Chapter 13: Emergency Operations to address the additional six month extension for over-income families. During the COVID-19 emergency, over-income SLA, MTW families scheduled to expire between April 1 and September 30, 2020 will be extended by six months. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher Families, 2020 MTW Plan Amendment No. 2).
7	13	Chapter 13: Emergency Operations	A new chapter was added to the ACOP to summarize the temporary policies put in place for emergencies and HUD waivers in response to COVID-19 emergency for items 2, 3, 4, 5, and 6.

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**July 14, 2020**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Employee Personnel Handbook Revisions**

## **RECOMMENDATION(S)**

Adopt Resolution No. 91 approving revisions to the Housing Authority of the County of San Bernardino's Employee Personnel Handbook.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**HACSB communication is open, honest and consistent.**

## **FINANCIAL IMPACT**

Approval of the proposed revisions to Employee Personnel Handbook will not have a material net financial impact to the Housing Authority of the County of San Bernardino's (HACSB) approved annual budget. Any costs related to implementation of these policy revisions should be reimbursed through the Coronavirus Aid, Relief, and Economic Security (CARES) Act or through the tax relief as outlined in the Families First Coronavirus Response Act (FFCRA).

## **BACKGROUND INFORMATION**

In March 2007, the Board of Commissioners (Board) approved HACSB's Personnel Policy Handbook. Since that time, the handbook has been presented to the Board and approved for changes in 2011, 2012, 2013, 2014, 2015 and most recently 2020. However, in response to evolving times due to the COVID-19 pandemic, additional policy changes are being requested, as included in the May 12, 2020 board packet. The policy revisions being presented reflect recent emergency changes needed as part of HACSB's change in work practices. Revisions to policies include: incentive pay, telecommuting, sick leave, and family leave, of which will consist of permanent changes in the handbook.

In addition to these changes, we are proposing three supplemental (temporary) policies that will not be part of the handbook. These supplemental policies were provided by employment legal counsel to assist us in developing our response to COVID-19. The Emergency Telecommuting Policy is proposed as a supplemental policy that will be referenced in the current telecommuting policy. When an emergency arises, such as the COVID-19 pandemic, the Executive Director may authorize telecommuting practices consistent with the Emergency Telecommuting Policy.

The Emergency Paid Sick Leave is a new federal law under the FFCRA. This supplemental policy will only be in effect from April 1, 2020 through December 31, 2020 as stated in the law. The supplemental policy reflects the requirements of our agency to allow staff to take up to 80 hours of Emergency Paid Sick Leave for reasons related to COVID-19. The Emergency Family Medical Leave is also a new federal law under FFCRA, which expands reasons for employees taking Family Medical Leave to reasons related to childcare due to COVID-19. This supplemental policy

will only be in effect from April 1, 2020 through December 31, 2020 as stated in the law. This supplemental policy reflects the requirements of our agency to allow staff to take up to 12 weeks off work for lack of child care due to COVID-19.

The table below summarizes the proposed policy revisions and proposed supplemental policies.

<b><u>Policy</u></b>	<b><u>Proposed Policy Revisions</u></b>
2011–Incentive Pay Program	Modified to include Emergency Task Incentive as an option for incentives for select positions during emergency situations.
4011-Telecommuting	Modified to add in recognition of a supplemental Emergency Telecommuting policy that will only be activated in case of major disruption to normal operations.
5006–Sick Leave and Kin Care Benefit	Modified policy to reference the Emergency Paid Sick Leave as required under the Families First Coronavirus Response Act. Directed staff to review the supplemental policy for further information.
5008-Family Medical Leave	Modified policy to reference the Emergency Family and Medical Leave Expansion Act as required under the Families First Coronavirus Response Act. Directed staff to review the supplemental policy for further information
<b><u>Policy</u></b>	<b><u>Proposed Supplemental/Temporary Policies</u></b>
4011.2–Emergency Telecommuting Policy	Supplemental Policy only applied in emergency telecommuting situations.
5006.2-Emergency Paid Sick Leave	Supplemental policy only applied during the dates of April 1, 2020 – December 31, 2020 referencing requirements under the Families First Coronavirus Response Act.
5008.2-Emergency Family Medical Leave	Supplemental policy only applied during the dates of April 1, 2020 – December 31, 2020 referencing requirements under the Families First Coronavirus Response Act.

#### **PROCUREMENT**

Not applicable.

#### **REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 25, 2020.

**HOUSING AUTHORITY RESOLUTION NO. 2020-91**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE  
COUNTY OF SAN BERNARDINO APPROVING REVISIONS TO THE HOUSING AUTHORITY OF  
THE COUNTY OF SAN BERNARDINO EMPLOYEE POLICY HANDBOOK**

**RECITALS**

**WHEREAS**, the Housing Authority of the County of San Bernardino (HACSB) Employee Policy Handbook sets forth the terms and conditions of employment for all full-time and part-time employees; and

**WHEREAS**, the Employee Policy Handbook contains the employment policies and practices of HACSB in effect at the time of publication, and it supersedes all previous policies, rules, procedures and past practices of HACSB, both oral and written; and

**WHEREAS**, HACSB desires to amend its policies and procedures as they relate to recent emergency personnel operations due to the COVID-19 pandemic, and updates to applicable law through legal review.

**OPERATIVE PROVISIONS**

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY  
OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:**

Section 1. The Board of Commissioners finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board of Commissioners hereby approves the revisions to the HACSB Employee Policy Handbook, a redline version of which is attached hereto as Exhibit "A" and Supplemental Policies of which is attached hereto as Exhibit "B" and incorporated by reference herein.

Section 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES: COMMISSIONER:

NOES: COMMISSIONER:

ABSENT: COMMISSIONER:

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SAN BERNARDINO        )       ss.

I, \_\_\_\_\_, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, \_\_\_\_\_, 20\_\_.

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Secretary

By 

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Deputy

## **2011 Incentive Pay Program**

### **Bilingual Pay**

This benefit in the form of extra pay is designed to compensate designated employees who are: a) required routinely and consistently to use communication skills in a language other than English; or b) available to assist other employees with the translation of non-English conversations.

The number of employees who receive Bilingual Pay and amount of Bilingual Pay shall be determined by the Agency, within the annual salary budget approved by the Board of Commissioners. Bilingual Pay will be suspended beginning the first day out on an approved Leave of Absence.

Please contact the Human Resources Department for additional information and procedural details regarding the Bilingual Pay Program.

### **Management Incentive Pay**

This benefit in the form of extra pay and/or extra paid time off is designed to compensate employees in selected positions based on the unique nature of their work. Eligible positions are designated by the Executive Director based upon established job duties and responsibility. The amount of Management Incentive Pay shall be determined by the Executive Director, within the annual salary budget approved by the Board of Commissioners.

Management Incentive Pay will be suspended following 12 calendar weeks of continuous absence, unless the employee is on an approved pregnancy disability leave of absence, in which case benefits will be suspended at the end of 16 weeks.

### **Acting Assignment Incentive Pay**

Acting employees are employees temporarily assigned by management to a higher position in order to fill a position vacancy of at least three weeks. The Acting Employee will be compensated at the minimum of the temporary position pay range or at a level of approximately 5% higher than the employee's current salary, whichever is greater, for the length of the "acting" assignment. If the temporary position is eligible for Management Incentive Pay, the Acting Employee will receive the Management Incentive Pay and/or extra time off accrual while in the temporary assignment. All acting assignments must be approved in advance by the immediate Supervisors and Department Heads of the outgoing and incoming departments, Human Resources and the Executive Director.

Except as otherwise required by law, any employee who receives Acting pay and is placed on a leave of absence of more than three (3) consecutive days, will not be eligible for Acting pay during the leave of absence.



### Maintenance On-Call Incentive Pay

The Agency On-Call policy and rotation procedure is established to ensure emergency maintenance issues are addressed promptly and effectively during non-working hours.

Positions designated to participate in on-call rotation assignments will be determined by the Agency. Designated personnel will be paid for actual time worked in accordance with the Agency Overtime Policy. In addition, an on-call incentive will be paid to the designated participants in an amount set by the Agency, within the annual salary budget approved by the Board of Commissioners.

Please contact Human Resources for additional information and procedural details regarding the Maintenance On-Call Incentive Pay Program.

### Project Incentive Pay

This benefit in the form of extra pay is designed to compensate employees for accepting and performing a project assignment outside the duties of their approved Agency Job Description. Project assignments are based upon business necessity and resources available, and must be approved by the Executive Director.

Except as required by law, any employee who is receiving Project Incentive Pay and is placed on a leave of absence of more than three (3) consecutive days, will not be eligible for Project Incentive Pay during the leave of absence.

### Emergency Task Incentive

This benefit in the form of extra pay is designed for emergency situations in which staff are asked to perform duties in which an additional hazard is present and staff are asked to continue to perform their duties and/or additional duties. This incentive would be considered temporary and based on budget available and approval from the Executive Director. Employees would only be eligible for this incentive on actual days worked, not including holidays.

## **4011 Telecommuting**

The Housing Authority may authorize telecommuting from a home office or satellite office for eligible employees in order to create a flexible and supportive work environment. Telecommuting is an alternative work arrangement in which an eligible employee, with written approval from the Director of Human Resources or Executive Director, works one or more days each work week or month from home or a satellite office instead of commuting to their assigned work site. Telecommuting is not intended for employees to work from home or a satellite office on a full-time basis. In general, telecommuting is a privilege which may be granted under appropriate circumstances, and the operational needs of the Housing Authority are paramount in any decision to grant or revoke the privilege. Telecommuting cannot be used in place of sick leave, FMLA, or other types of leave.

Under no circumstances will an employee be permitted to telecommute without written approval by the Director of Human Resources or Executive Director.

Authorization for telecommuting assignments will be made based on the following criteria:

- Regular full-time employee with 6 months or more time in current position;
- The operational needs of the department, as determined by the appropriate Sr. Management Team member;
- The prior work history and specific job duties of the employee and the ability to perform such duties from a remote location; an employee who has been subject to discipline within the prior 6 months is not eligible for consideration.
- The ability to provide the necessary equipment and supplies to a remote location at a reasonable cost.

All employees approved for telecommuting must comply with the following criteria:

- The employee must be able to be immediately contacted by phone or e-mail during predetermined work hours;
- For employees eligible to earn overtime, the employee must accurately report all time worked and the employee is prohibited from working overtime without the express approval of his or her supervisor;
- The employee must remain in good standing with respect to performance and discipline as determined by the Director of Human Resources or Executive Director.

An employee can request a telecommuting assignment from their direct supervisor. [A telecommuting request form should be completed for each request.](#) –Requests will be assessed and approved by the appropriate level of Management, including the Sr. Management Team member overseeing the employee's location or program. All telecommuting arrangements must be assessed and approved by the Director of Human Resources or Executive Director. Any telecommuting assignment may be canceled at any time by the Director of Human Resources or Executive Director. For further information on telecommuting and specific guidelines, please contact Human Resources.

[If an emergency exists which would cause the disruption of normal operations, the Executive Director may authorize activation of the Emergency Telecommuting Policy. This agreement will modify existing policy and eligibility requirements in place and will be in effect for a designated time period. For further information on the Emergency Telecommuting Policy, please contact Human Resources.](#)

## **5006 Sick Leave and Kin Care Benefit**

The Agency offers paid sick leave to any employee who, on or after July 1, 2015, works thirty (30) or more days within a year from the commencement of employment. This includes, regular and contract full-time and part-time staff.

Sick leave is generally provided for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member, and for use by a covered employee who is a victim of domestic violence, sexual assault, or stalking. Time off for medical and dental appointments will be treated as sick leave, though employees should try to schedule such appointments outside the work day. Sick leave will not be granted to any employee to permit an extension of the employee's vacation.

Pursuant to California's Paid Sick Leave Law (Labor Code section 245, et seq.) an employee is entitled to use the first three days (or similar hours based on full-time or part-time status) in a 12-month period to care for a family member. For purposes of this leave, family member is defined consistent with Labor Code section 245.5(c), which generally includes a child regardless of age or dependency status (including a foster child, step child, legal ward, and those similarly situated), a parent (including a spouse's parent, guardian, and those similarly situated), a spouse, a registered domestic partner, a grandparent, a grandchild and a sibling.

Pursuant to Labor Code section 233, an employee is also entitled to use one half of his or her accrued and available annual sick leave entitlement to attend to the illness of a child, parent, spouse, or registered domestic partner. For purposes of this leave, "parent" and "child" include biological, foster, adopted, step or legal guardian relationships. A "child" also includes a child of a registered domestic partner or a child to whom the employee stands in loco parentis. This is known as "Kin Care Leave".

To the extent an employee's use of sick leave qualifies as both care for a family member under California's Paid Sick Leave law and Kin Care leave, the leaves will be run concurrently. Similarly, to the extent the care for a family member under California's Paid Sick Leave law or Kin Care Leave qualifies as leave under the Family Medical Leave Act (FMLA) and/or the California Family Rights Act (CFRA), the leaves will be run concurrently.

Supervisors shall have the discretion to place employees on sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of such employee's duties.

The Sick Leave benefit for all regular and contract full-time staff will accrue and be paid within the following guidelines:

- Sick Leave accrual begins on the date of hire at the rate of 12, nine (9) hour days per year, accrued in a pro-rated amount every pay period.

- Unused Sick Leave will carry over from calendar year to calendar year, with no maximum.
- Employees are eligible at hire to use their accrued Sick Leave. Sick Leave will not be paid in advance of accrual.
- Sick Leave will stop accruing after 12 calendar weeks of continuous absence. An employee on an approved pregnancy disability leave will stop accruing after 16 weeks where applicable and an employee on an approved military caregiver leave, stop accruing after 26 weeks where applicable. (See Policy 5008, 5008A).

The Sick Leave benefit for all regular and contract part-time employees will be granted in a lump sum method on an annual basis and paid within the following guidelines:

- Part-time employees hired before July 1, 2015 will receive a lump sum of sick leave effective the first pay period in July 2015 based on employment status as shown below. Every year thereafter on January 1, employees in this category shall receive an annual grant based on current status.

<u>Status</u>	<u>Hours/Week</u>	<u>Hours Granted per Year</u>
Part-time	20-29	30
Part-time	1-19	24

- Employees hired after July 1, 2015 will be granted sick leave the first pay date following their hire date based on employment status as shown on the table. Every year thereafter on January 1, the employee will receive an annual grant based on current status.
- Employees are eligible at hire to use available sick leave.
- The annual grant does not roll over to the next year and is not paid out upon termination of employment.

All sick leave whether accrued or lump sum will follow the following guidelines:

- Sick Leave may be taken in no less than ½ hour increments, consistent with the smallest increment the Agency uses for other types of leaves and absences.
- At no time is paid Sick Leave included in overtime calculations.
- Management may request a Physician's written verification of any sick leave taken beyond the first three (3) days taken in a 12-month period. A physician's statement releasing the employee to return to work may be required after 3 days' consecutive absence. A "fitness for duty" assessment may also be required upon return from longer-term leaves of absence, at the expense of the Agency.
- The use of Vacation Time may not be substituted for hours missed under this Sick leave policy should the employee no longer have sick leave remaining. (unless approved through an approved Leave of Absence)
- See Policy 3006 (Punctuality and Attendance) for the rules regarding (1) how and when the notify a supervisor of an absence from work, (2) what absences will be

counted against the employee's attendance record, and (3) the consequences of excessive absences.

[Additionally, from April 1, 2020 through December 31, 2020, eligible employees can take Emergency Paid Sick Leave as defined under the Families First Coronavirus Response Act \(FFCRA\). For more information on the sick leave available through the FFCRA. See supplemental policy Emergency Paid Sick Leave or contact Human Resources.](#)

**Sick Leave Benefit at Termination:** Employees who have completed 10 years of continuous full-time employment with the Agency, and upon separation due to retirement, death, voluntary termination of employment or disability causing permanent incapacity to work, an employee or the estate of the deceased employee shall be paid 50% of their total accrued or lump sum balance to a maximum of 480 hours. Employee must give a notice of at least two weeks to be eligible for this benefit. Any notice less than two weeks in good faith will require approval from the Executive Director. Such reimbursement shall be at the employee's base rate of pay at the time of separation.

## **5008 Family Medical Leave and California Family Rights Act Leaves**

The following establishes the uniform guidelines for administration of the Agency's leave of absence policy under the Family and Medical Leave Act (Federal) and the California Family Rights Act (State), and other applicable state and local laws.

Employees who have been employed by the Agency for a total of 12 months and have worked at least 1,250 hours of service during the previous twelve (12) month period are eligible for a family care or medical leave of absence under this policy upon satisfying the eligibility period, unless employed at a non-covered work site. Family care or medical leaves are unpaid leaves of absences, unless paid vacation/sick days are used in accordance with this policy.

### **1. Reasons for Family Care or Medical Leaves**

Family Care or Medical leave may be granted for the following reasons:

- a. The birth of the employee's child and in order to care for the child:
- b. The placement of a child with the employee for adoption or foster care:
- c. To care for a spouse, registered domestic partner, child or parent with a serious health condition.
- d. A serious health condition that makes the employee unable to perform the functions of the position of such employee. (Also applies to Pregnancy Disability Leaves)
- e. For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter or parent is on active duty or call to active duty status as a

member of the National Guard or Reserves in support of a contingency operation.

- f. To care for a spouse, child, parent or next of kin who is a covered service member with a serious injury or illness which occurred in the line of duty on active duty.

(Taking leave for birth or adoption applies to both male and female employees. The entitlement of leave for the birth or placement of a child for adoption or foster care will expire (12) months from the date of the birth or placement.)

Any leave taken for the birth of a child or the placement of a child with you for adoption or foster care must be completed within one (1) year after the date of birth or placement.

[Additionally, from April 1, 2020 through December 31, 2020, employees may be eligible for leave through the Emergency Family and Medical Leave Expansion Act \(EFMLA\). More information on this expansion Act can be found in the EFMLA Policy or by contacting Human Resources.](#)

## 2. Definitions

For purposes of this policy, the following definitions apply:

“Son or Daughter” means biological, adopted or foster child, a step child, a legal ward, or a child of a person standing in loco parentis, who is either under 18 years of age or older and incapable of self-care because of medical or physical disability.

“Parent” means the biological parent of an employee or an individual standing in loco parentis to an employee.

“Next of Kin” means the nearest blood relative aside from spouse, child or parent.

“Covered Service Member” means a current member of the Armed Forces (including National Guard and Reserves) or a member of the Armed Forces but on a temporary disability retired listing.

“Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves, (A) inpatient care in a hospital, hospice or residential medical care facility, or (B) continuing treatment or continuing supervision by a health care provider. Conditions or medical procedures that would not be covered by this policy include minor illnesses, which last only a few days, and surgical procedures, which do not involve hospitalization and require only a brief recovery period. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy (under FMLA only), or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

“Health Care Provider” means (A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices, or (B) any other person determined by the Secretary to be capable of providing health care services.

“Qualifying Exigency” is defined by law as (1) short-notice deployment, (2) military events and related activities, (3) childcare and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post-development reintegration briefings, and (8) additional activities where the Agency and employee agree to the leave.

“Highly-Compensated Employee” is defined as a salaried covered employee who is among the highest paid 10 percent of all the employees employed by the employer within the 75 miles of the employee’s work site.

“Annual Leave Paid” is defined as the 12-month period measured forward from the date of the employee’s first Family and Medical Leave begins.

### 3. Amount of Leave

All employees who meet the applicable requirements may be granted up to a total of twelve (12) weeks of unpaid, job-protected Family Care or Medical Leave during a 12-month period. For leaves related to reason “f”, as listed above under “Reasons for Family Care or Medical Leaves”, eligible employees may take up to 26 weeks of unpaid, job-protected leave during a 12-month period. The 12-month period, defined as the Annual Leave Period, will be measured forward from the date the employee’s first Family Care or Medical Leave begins.

Family Care or Medical Leaves are unpaid leaves. However, the employee will be required to use sick time toward the requested Family Care or Medical Leave for the employee’s own serious health condition, birth of a child or to care for a spouse, registered domestic partner, child or parent with a serious health condition. The use of accrued vacation and/or comp time during an approved Family Care or Medical Leave is optional and must be requested in advance in accordance with policy 5002 Vacations. The substitution of sick time and vacation time for family care or medical leave does not extend the total duration of family care and medical leave to which an employee is entitled to beyond 12 weeks (26 weeks where applicable) in a 12-month period under the Family and Medical Leave Act, FMLA/CFRA, and where applicable, Pregnancy Disability Leave time off run concurrently.

The Agency will discontinue payment to an employee when all required and optional accrued balances have been exhausted, and the employees shall be placed on leave without pay. The Agency shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the Agency by utilizing accrued allowances. Vacation time, sick leave and seniority shall continue to accrue during a family care or

medical leave of absence for up to a maximum of 12 weeks per year (26 weeks where applicable).

#### 4. Employment of both Spouses or Registered Domestic Partners at Same Agency

When both spouses are employed by the Agency and entitled to a leave to care for a newborn child with a serious health condition, both parents may take up to 12 weeks of leave. For all other reasons covered under #1 “Reasons for Family Care or Medical Leaves”, when both spouses or registered domestic partners are employed by the agency and are entitled to leave, the number of workweeks to which both may be entitled will be aggregated for purposes of determining the maximum duration of a leave.

#### 5. Leave Taken On Intermittent or Reduced Leave Schedule

Leaves may be taken intermittently or on a reduced leave schedule. If any employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the Agency retains the discretion to transfer the employee, temporarily, to an alternate position for which the employee is qualified that has equivalent pay and benefits and better accommodates recurring periods of leave than the employee’s regular position. In the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the certification shall contain the following: a) date on which the serious health condition commenced; b) the probable duration of the condition; c) dates on which treatment is expected to be given and the duration of such treatment; and, d) statement that the intermittent or reduced scheduled leave is necessary for the care of the son, daughter, parent or spouse or will assist in their recovery.

#### 6. Administration

An employee must, if possible, submit an application for leave at least thirty (30) days before the leave is to begin. In situations where it is not possible for an employee to give notice, an employee must give notice to his/her immediate supervisor as soon as possible before/after the necessity for the leave arises. Employees must comply with the agencies normal call in procedures as applicable at the start of any leave or absence.

Employees on an approved leave of absence will still be responsible for abiding by all policies as set forth in the employee personnel policy, Employees on a leave of absence are not to accept any other form of employment without prior written request and approval from the Housing Authority Human Resources Department.

In all cases, an employee requesting leave must complete a “Leave of Absence Request” form and return it to the Human Resources Department. The completed application must state the reason for the leave (such as medical purposes or family care leave), the duration of the leave, and the starting and ending dates of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances that support the need for Military Caregiver Leave or



Military Qualifying Exigency Leave. Employees also must inform the Agency if the requested leave is for a reason for which Medical or Family Care LOA was previously taken or certified.

An application for leave based on the serious health condition of the employee, employee's spouse, registered domestic partner, child or parent must be accompanied by a "Certification of Health Care Provider" completed by the applicable health care provider and returned to Human Resources. The medical certification for leave shall include: a) the date on which the serious health condition commenced; b) the probable dates and duration of any planned treatment; and, c) a statement that, due to the serious health condition of the employees or applicable family member, the employee is unable to perform or attend the functions of his/her position. The Agency may also require periodic recertification supporting the need for leave. In any case in which the Agency has reason to doubt the validity of any medical certification provided to support an employee's request to take Medical or Family Care LOA because of the employee's own serious health condition, the Agency may require the opinion of a second and third health care provider consistent with state and federal law.

Once an employee provides the sufficient information, the Agency will notify the employee (a) whether he or she is eligible for Family Care or Medical Leave and, if so, (b) whether any additional information is required and (c) the employee's rights and responsibilities regarding such leave. The Agency will also notify an eligible employee who has requested Family Care or Medical Leave if the requested leave will be designated as FMLA/CFRA protected leave and counted against the employee's leave entitlement.

If the Agency determines an employee is not eligible for Family Care or Medical Leave, the Agency will provide at least one reason for ineligibility. The Agency will also inform the employee if it determines that the requested leave does not qualify for the FMLA/CFRA protection.

For leaves that extend beyond the initial certified time off, the employee must make a written request to the Human Resources Department at least ten (10) days in advance of the expiration of their initial or extended leave of absence. This must be done to authorize continuation of Family Leave under this policy. Failure by the employee or the healthcare provider to supply satisfactory documentation in a timely manner will delay approval (or continuation) of Family Leave provided through this policy and could result in the termination of employment due to unexcused leave.

The Agency will approve additional time off provided the sum of all leaves and extensions does not exceed twelve (12) weeks within a rolling twelve (12) month period. If the sum of all FMLA leaves exceeds twelve (12) weeks within a rolling twelve (12) month period, the Agency may or may not approve the additional time off.

## 7. Benefit Entitlement

The Agency shall continue to pay for all applicable group health insurance premiums which it ordinarily pays on behalf of the employee up to a maximum of 12 weeks (26 weeks where applicable) on the same terms that existed prior to the leave. In turn, employees must continue to pay the employee portion of the insurance premium during the leave of absence. Failure to remit premium payments on a timely basis will result in the lapse of coverage.

Upon conclusion of the applicable time frame, the entire premium may be self-paid by the employee under the provision of CalPERS and/or COBRA by making payments to the Agency for the amount of the total premium.

If the employee fails to return from this leave, in some circumstances, the Agency may attempt to recoup the cost of the insurance premiums paid on behalf of the employee during the leave. In the event a Medical or Family Care LOA is approved beyond twelve (12) weeks, the employee may be responsible for paying the entire premium.

Employees should contact the Human Resources Department for further information.

#### 8. Reinstatement from Leave

An employee returning from a leave for his/her serious health condition shall obtain and provide to the Agency a certification from the employee's health care provider that the employee is able to resume work.

Employees returning from family care or medical leave are entitled to reinstatement to the same or comparable position with equivalent pay, benefits and responsibilities, consistent with applicable law. The Agency retains the right to deny reinstatement to employees who are among the highest paid ten percent (10%) of the Agency's employees and whose reinstatement would cause substantial and grievous economic injury to the Agency's operation. There will be no reinstatement to the same or a comparable position if such positions ceased to exist because of legitimate business reasons unrelated to the employee's taking a family care or medical leave.

An employee has no right to the same position and has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave period. If the employee returns to work outside of the legally allotted time for such a leave, the employee will only be reinstated if there is an available open position which they are qualified to fill.

#### 9. Failure to Return from Leave

The failure of an employee to return to work upon the expiration of a Family Care or Medical Leave may be interpreted as the employees' voluntary resignation and could subject the employee to discipline up to and including termination. An employee who requests an extension of Family Care or Medical Leave due to the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to the Human Resources Department. This written request should be made as soon

as the employee realizes that she or he will not be able to return at the expiration of the leave period. The Agency is not required to grant a leave beyond the maximum amount allowed under this policy.

## **Emergency Telecommuting Policy**

The purpose of the Emergency Telecommuting Policy is to ensure that essential Housing Authority functions continue to be performed at an alternative location during the disruption of normal operations. This Policy is an emergency policy and the Executive Director has discretion to withdraw the Policy if deemed necessary.

The Executive Director or her designee shall designate and authorize specific times in which an Emergency Telecommuting Agreement (“ETA” or “Agreement”) shall apply. Any ETA is subject to the terms and conditions set forth in this Policy below.

### **Eligibility Criteria**

Telecommuting is not suitable for all employees and/or positions. The Executive Director or her designee has the discretion to determine the employees and positions who may telecommute on an emergency basis utilizing criteria that includes, but is not limited to:

1. The operational needs of the employee’s department and the Housing Authority;
2. The potential for disruption to the Housing Authority’s functions;
3. The ability of the employee to perform his or her specific job duties from a location separate from his or her Housing Authority worksite (‘Alternate Worksite’) without diminishing the quantity or quality of the work performed;
4. The degree of face-to-face interaction with other employees and the public that the employee’s position requires;
5. The portability of the employee’s work;
6. The ability to create a functional, reliable, safe, and secure Alternate Worksite for the employee at a reasonable cost;
7. The risk factors associated with performing the employee’s job duties from a location separate from his or her worksite;
8. The ability to measure the employee’s work performance from a location separate from his or her worksite;
9. The employee’s supervisory responsibilities;
10. The employee’s need for supervision;
11. Other considerations deemed necessary and appropriate by the employee’s immediate supervisor, Department Head, and the Director of Human Resources.

**Telecommute Assignment:**

1. Any ETA is only valid for the time period specified in the Agreement. The Agreement is invalid after this time unless the Housing Authority approves an extension in writing. The Housing Authority may, in its discretion, decide to terminate the Agreement earlier.
2. Employee acknowledges and agrees that the ETA is temporary and subject to the discretion of management. Telecommuting will be approved on a case-by-case basis consistent with the eligibility criteria above.
3. Non-exempt employees who receive overtime shall be assigned a work schedule in the ETA, including rest and meal breaks ("Work Schedule"). Any deviation from the Work Schedule must be approved in advance, in writing, by management. Non-exempt employees must take meal and rest breaks while telecommuting, just as they would if they were reporting to work at their worksite. Non-exempt employees may not telecommute outside their normal work hours without prior written authorization from their supervisor. A non-exempt employee who fails to secure written authorization before telecommuting outside his or her normal work hours may face discipline in accordance with the Housing Authority's policy for working unauthorized overtime.
4. Telecommuting employees are required to be accessible in the same manner as if they are working at their worksite during the established telecommuting Work Schedule, regardless of the designated location for telecommuting, or "Alternate Worksite." Employees must be accessible via telephone and email to their supervisor and other employees while telecommuting, as if working at their Housing Authority worksite. Employees shall check their Housing Authority-related business phone messages and emails on a consistent basis, as if working at their worksite.
5. Employees shall work according to the approved Work Schedule. Hourly employees are required to maintain an accurate record of all hours worked at the Alternate Worksite using Paycom.
6. While telecommuting, employees shall adhere to the following:
  - a. Be available to the department via telephone and/or email during all ETA designated work hours.
  - b. Have the Alternate Worksite be free of distractions, with reliable and secure internet and/or wireless access.
  - c. All periods of employees' unavailability must be approved in advance by management in accordance with department policy and documented in writing.
  - d. Employees shall ensure dependent care will not interfere with work responsibilities.

- e. Employees must notify their supervisor promptly when unable to perform work assignments because of equipment failure or other unforeseen circumstances.
- f. If the Housing Authority has provided Authority owned equipment, employees agree to follow the Housing Authority Policy for the use of such equipment. Employees will report to their supervisor any loss, damage, or unauthorized access to Authority owned equipment, immediately upon discovery of such loss, damage, or unauthorized access.

### **General Duties, Obligations and Responsibilities:**

Employees must adhere to the provisions set forth in this Policy and the terms of the ETA. Any deviation from the ETA requires prior written approval from Human Resources.

1. All existing duties, obligations, responsibilities and conditions of employment remain unchanged. Telecommuting employees are expected to abide by all Housing Authority and departmental policies and procedures, rules and regulations, and all other official documents and directives.
2. Employees authorized to perform work at an Alternate Worksite must meet the same standards of performance and professionalism expected of Authority employees in terms of job responsibilities, work product, timeliness of assignments, and contact with other employees and the public.
3. Employees shall ensure that all official Housing Authority documents are retained and maintained according to the normal operating procedures in the same manner as if working at a Housing Authority worksite.
4. Employees may receive approval to use personal computer equipment or be provided with Authority issued equipment at the discretion of the Executive Director or her designee.
5. The Authority shall not be responsible for costs associated with the use of computer and/or cellular equipment, including energy, data or maintenance costs, network costs, home maintenance, home workspace furniture, ergonomic equipment, liability for third party claims, or any other incidental costs (*e.g.*, utilities associated with the employee's telecommuting).
6. Employees may receive a virtual private network ("VPN") account, as approved by the Executive Director or her designee.
7. Employees shall continue to abide by practices, policies and procedures for requests of sick, vacation and other leaves of absences. Requests to work overtime, declare vacation or take other time off from work must be pre-approved in writing or via Paycom by each employee's supervisor. If an employee becomes ill while working

under an ETA, they shall notify their supervisor immediately and record on their timesheet any hours not worked due to incapacitation.

8. Employees must take reasonable precautions to ensure their devices (*e.g.*, computers, laptops, tablets, smart phones, etc.) are secure before connecting remotely to the Housing Authority network and must close or secure all connections to Housing Authority desktop or system resources (*e.g.*, remote desktop, VPN connections, etc.) when not conducting work for the Authority. Employees must maintain adequate firewall and security protection on all such devices used to conduct [AGENCY] work from the Alternate Worksite.
9. Employees shall exercise the same precautions to safeguard electronic and paper information, protect confidentiality, and adhere to the Housing Authority records retention policies, especially as it pertains to the Public Records Act. Employees must safeguard all sensitive and confidential information (both on paper and in electronic form) relating to Authority work they access from the Alternate Worksite or transport from their Authority worksite to the Alternate Worksite. Employees must also take reasonable precautions to prevent third parties from accessing or handling sensitive and confidential information they access from the Alternate Worksite or transport from their Agency worksite to the Alternate Worksite. Employees must return all records, documents, and correspondence to the Housing Authority at the termination of the ETA or upon request by their supervisor, Department Head or Human Resources.
10. Employees' salary and benefits remain unchanged. Workers' Compensation benefits will apply only to injuries arising out of and in the course of employment as defined by Workers' Compensation law. Employees must report any such work-related injuries to their supervisor immediately. The Housing Authority shall not be responsible for injuries or property damage unrelated to such work activities, including injuries to third persons when said injuries occur at the Alternate Worksite.
11. All of Employees' existing supervisory relationships, lines of authority and supervisory practices remain in effect. Prior to the approval of this Agreement, supervisors and employees shall agree upon a reasonable set of goals and objectives to be accomplished. Supervisors shall use reasonable means to ensure that timelines are adhered to and that goals and objectives are achieved.

Any breach of the telecommuting agreement by the employee may result in termination of the Agreement and/or disciplinary action, up to and including termination of employment.

## **Supplemental Policy**

### **5006.2 - Emergency Paid Sick Leave**

As part of the Families First Coronavirus Response Act (“FFCRA”), from April 1, 2020 – December 31, 2020, eligible employees can take Emergency Paid Sick Leave for one of the six qualifying reasons described below under subsections (a) and (b):

- (a) Eligible employees are entitled to up to 80 hours of Emergency Paid Sick Leave at their full regular rate of pay up to \$511/day and \$5,110 in the aggregate, as provided under the FFCRA if they are unable to work or telework for the following reasons:
  - (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, as defined below. An employee who lives with an individual who is among one or more of those categories of individuals advised to shelter in place, stay at home, isolate or quarantine will *not* qualify for Emergency Paid Sick Leave based on that reason under this subsection. However, such an employee may qualify for Emergency Paid Sick Leave pursuant to the qualifying reason provided for in subsection (b)(1) below.
  - (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
  - (3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- (b) Eligible employees are entitled to up to 80 hours of Emergency Paid Sick Leave at two-thirds (2/3) of the employee’s regular rate of pay up to \$200/day and \$2,000 in the aggregate, as provided under the FFCRA, if they are unable to work or telework because:
  - (1) The employee is caring for an “individual,” as defined below, who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or been advised by a health care provider to self-quarantine due to concerns related to COVID-19 as described in subsections (a)(1) and (2) above.
  - (2) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions. “Son or daughter” and “child care provider” are defined below.
  - (3) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.



The Agency will allow employees to supplement the compensation they receive if taking leave under Emergency Paid Sick Leave (paid up to the specified limitations under the FFCRA) with their accrued sick or vacation leaves in order to achieve 100% of the pay the employee would normally receive in a given week for working their regularly scheduled hours.

Leave taken as Emergency Paid Sick Leave is in addition to sick leave provided by the Agency. Unused Emergency Paid Sick Leave does not carryover for any employee.

Employees hired on or after April 1, 2020 who took the full 80 hours of Emergency Paid Sick Leave when employed by another employer are not entitled to take any additional Emergency Paid Sick Leave with the Agency. An employee who has taken some, but not all, of the Emergency Paid Sick Leave to which they are entitled, when they were employed by another employer, is entitled only to the remaining portion of such leave from the Agency if the employee meets the eligibility requirements provided above.

### **Definitions**

For purposes of this policy, the following definitions apply:

“Health care provider” means the following for the purposes of employees who may be exempted from Emergency Paid Sick Leave:

1. Anyone employed at any doctor’s office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity; and
2. Any individual employed by an entity that contracts with any of these institutions described above to provide services or to maintain the operation of the facility where that individual’s services support the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments.

“Child Care Provider” means a provider who receives compensation for providing child care services on a regular basis. The term includes a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that is licensed, regulated, or registered under State law; and satisfies the State and local requirements. However, under the Families First Coronavirus Response Act (“FFCRA”), the eligible child care provider *need not be compensated or licensed* if he or she is a family member or friend, such as a neighbor, who regularly cares for the Employee’s child.

“Son or Daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is under 18 years of age; or 18 years of age or older who is incapable of self-care because of a mental or physical disability. (29 U.S.C. 2611; 29 CFR 826.10(a).)

“Subject to a Quarantine or Isolation Order” means a quarantine or isolation order includes quarantine, isolation, containment, shelter-in-place, or stay-at-home orders issued by any Federal, State, or local government authority that cause the Employee to be unable to work even though his or her Employer has work that the Employee could perform but for the order. This also includes when a Federal, State, or local government authority has advised categories of citizens (*e.g.*, of certain age ranges or of certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of Employees to be unable to work even though their Employers have work for them.

“Individual” means an employee’s immediate family member, a person who regularly resides in the employee’s home, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she were quarantined or self-quarantined. “Individual” does not include persons with whom the Employee has no personal relationship.

#### **Amount of Leave**

Full time employees working 40 hours per week may take up to 80 hours of Emergency Paid Sick Leave.

Part time employees may take up to the number of hours that they work on average over a two-week period as determined by reviewing the six-month period prior to the usage of leave. If the employee has not worked for the Agency for six months, the Agency will calculate the leave entitlement based on the period during which the employee has been employed.

#### **Intermittent Leave**

The Agency agrees to allow intermittent EPSL for employees who have requested leave to care for their son or daughter or if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions. Intermittent Leave will be approved in whole day increments.

#### **Protected Sick Leave**

Any leave approved as EPSL is considered protected leave and the Agency may not discharge, discipline or discriminate against employees who takes such leave. An employee who uses Emergency Paid Sick Leave is entitled to reinstatement to their prior position unless the position held by the employee does not exist due to economic conditions or other changes in operating conditions caused by a public health emergency during the period of leave such that the employee would not otherwise have been employed at the time of reinstatement.

**Administration of Leave**

Employees must notify Human Resources as soon as possible regarding the need for Emergency Paid Sick Leave. Employees will be required to complete a Request for EPSL through Human Resources along with supporting documentation as indicated on the form. It is understandable that an employee may not know the need for EPSL arises until after the first day of need. As soon as the employee becomes aware, they must notify Human Resources.

An employee may provide notice of the need to use EPSL orally or in writing, or may provide such notice through the employee's spokesperson (e.g., spouse, adult family member, or other responsible party) if the employee is unable to provide such notice themselves. Notice is recommended directly to Human Resources.

If an employee fails to provide proper notice, the Agency will provide the employee notice of the failure and provide the employee with an opportunity to provide the required documentation, described below, prior to denying the employee's request for leave.

Employees on an EPSL will still be responsible for abiding by all policies as set forth in the employee personnel policy. Employees on EPSL are not to accept any other form of employment without prior written request and approval from the Housing Authority Human Resources Department.

**Sick Leave upon Separation of Employment**

Unused EPSL is not cashed out upon termination, resignation, retirement or other separation from employment. Unused EPSL is not eligible for retirement service credit.

## **Supplemental Policy**

### **5008.2 Family Medical Leave and California Family Rights Act Leaves**

As part of the Families First Coronavirus Response Act (“FFCRA”), from April 1, 2020 – December 31, 2020, eligible employees can take Family and Medical Leave consistent with the Emergency Family and Medical Leave Expansion Act (EFMLA). In addition to the leave reasons under Policy 5008, EFMLA allows for leave based on the following:

Leave due to an inability to work (or telework) because the employee needs to provide care for the employee’s son or daughter under the Emergency Family and Medical Leave Expansion Act. (FMLA Sec. 110 (a)(2)(A).)

#### **Eligibility**

Employees are entitled to up to 12 weeks of job-protected Emergency FMLA Leave if the employee satisfies the following requirements:

- (1) The employee has worked for the Agency for at least 30 calendar days (FMLA Sec. 110(a)(1)(A);
- (2) The employee is unable to work (or telework) due to a need to care for the son or daughter (under 18 years of age or 18 years of age or older who is incapable of self-care because of a mental or physical disability) who’s school or place of care has been closed, or who’s child care provider is unavailable due to a COVID–19 emergency declared by either a Federal, State, or local authority, (FMLA Secs. 101(12); 110(a)(2)(A) & (B); 29 CFR §§ 825.102, 826.010);
- (3) The employee has not used all available FMLA leave. Emergency FMLA Leave is a form of FMLA leave, and is not in addition to any other FMLA leave; and
- (4) There is no other suitable person (*e.g.*, co-parent, co-guardian, or normal child care provider) available to care for the employee’s son or daughter during the period for which the Employee takes Emergency FMLA Leave.

#### **Definitions**

For purposes of this policy, the following definitions apply:

“Child” or “son or daughter” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for

care, and includes a biological, adopted, foster or step-child. A child is “incapable of self-care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories. (29 CFR §§ 825.102, 826.010; Gov. Code § 12945.2(c)(1).)

“Child Care Provider,” for purposes of Emergency FMLA means a provider who receives compensation for providing child care services on a regular basis. The term includes a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that is licensed, regulated, or registered under State law; and satisfies the State and local requirements. However, under the Families First Coronavirus Response Act (“FFCRA”), the eligible child care provider *need not be compensated or licensed* if he or she is a family member or friend, such as a neighbor, who regularly cares for the employee’s child.

### **Payment While on EFML**

The first ten (10) days of Emergency FMLA Leave may consist of unpaid leave. During this period, the employee may elect to use Emergency Paid Sick Leave (EPSL), as described in Supplemental Policy 5006.2, if the employee has not exhausted such leave through use at the Agency or prior employer. If the employee has exhausted the EPSL to which they are entitled, an employee may use their earned and accrued leaves to supplement their unpaid Emergency FMLA Leave compensation they receive under Emergency FMLA Leave in order to achieve 100% of the pay they would normally receive in a given week for working their regularly scheduled hours. Use of such accrued and unused leave will run concurrently with use of Emergency FMLA Leave.

After the tenth day, and for the remaining ten (10) weeks of EFMLA Leave, an employee is entitled to compensation for such leave at two-thirds (2/3) of the employee’s regular rate of pay, subject to a cap of \$200 per day and \$10,000 total. (FMLA Sec. 110(b).)

Employees may supplement the compensation they receive under EFMLA Leave (paid up to the specified limitations under the FFCRA) with their earned or accrued leaves in order to achieve 100% of the pay they would normally receive in a given week for working their regularly scheduled hours.

An eligible employee is entitled to a maximum of twelve workweeks of FMLA Leave during the period in which the leave may be taken (between April 1, 2020 to December 31, 2020) even if the twelve workweeks spans two FMLA leave twelve-month period.

## **Administration**

Employees must notify Human Resources as soon as possible regarding the need for EFMLA Leave. Employees will be required to complete a Request for EFML through Human Resources along with supporting documentation as indicated on the form.

It is understandable that an employee may not know the need for EFML arises until after the first day of need. As soon as the employee becomes aware, they must notify Human Resources.

An employee may provide notice of the need to use EFML orally or in writing, or may provide such notice through the employee's spokesperson (e.g., spouse, adult family member, or other responsible party) if the employee is unable to provide such notice themselves. Notice is recommended directly to Human Resources.

If an employee fails to provide proper notice, the Agency will provide the employee notice of the failure and provide the employee with an opportunity to provide the required documentation, described below, prior to denying the employee's request for leave.

Employees on an EFML will still be responsible for abiding by all policies as set forth in the employee personnel policy. Employees on EFML are not to accept any other form of employment without prior written request and approval from the Housing Authority Human Resources Department.

## **Intermittent Leave**

The Agency agrees to allow intermittent EFML for employees who have requested leave to care for their son or daughter or if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions. Intermittent Leave will be approved in whole day increments.

## **Protected Sick Leave**

Any leave approved as EFML is considered protected leave and the Agency may not discharge, discipline or discriminate against employees who takes such leave. An employee who uses Emergency Paid Sick Leave is entitled to reinstatement to their prior position unless the position held by the employee does not exist due to economic conditions or other changes in operating conditions caused by a public health emergency during the period of leave such that the employee would not otherwise have been employed at the time of reinstatement.

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**July 14, 2020**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Data Use Agreement for Desert Haven Apartments**

## **RECOMMENDATION(S)**

1. Approve a data use agreement, effective August 1, 2020, between the Housing Authority of the County of San Bernardino, Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., and Brilliant Corners for permanent supportive housing development, Desert Haven Apartments, for a five-year term through July 31, 2025.
2. Authorize and direct the Executive Director to execute and deliver the agreement to Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., and Brilliant Corners and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.**

**HACSB communication is open, honest and consistent.**

**HACSB clients, programs, and properties are embraced by all communities.**

**HACSB clients live in safe and desirable homes and communities where they can develop and prosper.**

## **FINANCIAL IMPACT**

Approval of the proposed non-financial agreement will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

## **BACKGROUND INFORMATION**

HACSB is currently underway with its second permanent supportive housing development, Desert Haven Apartments, in the city of Victorville. Desert Haven Apartments is a 31-unit apartment complex specifically for housing chronically homeless individuals from San Bernardino County. In addition to creating a quality living space, the purpose of this development is also to provide extended social services on-site, in order to better serve the needs of the residents. HACSB has developed partnerships with Inland Empire Health Plan (IEHP), County of San Bernardino Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., and Brilliant Corners to deliver ongoing supportive services to the residents at this property. Approval of this agreement will allow the mutual partners to access certain protected health information for the purpose of providing housing units, intensive case management and community health services for qualified IEHP Members at Desert Haven Apartments.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 25, 2020



**DATA USE AGREEMENT**  
**BETWEEN**  
**INLAND EMPIRE HEALTH PLAN**  
**AND**  
**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**  
**AND**  
**SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH**  
**AND**  
**VALLEY STAR BEHAVIORAL HEALTH, INC**  
**AND**  
**STEP UP ON SECOND STREET, INC.**  
**AND**  
**BRILLIANT CORNERS**  
**FOR**  
**DESERT HAVEN APARTMENTS**

This Data Use Agreement (“Agreement”) is made as of this 1st day of August, 2020, (“Effective Date”) by and between Inland Empire Health Plan (“IEHP” or “Covered Entity”), and , the Housing Authority of the County of San Bernardino, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health Inc., Step Up on Second Street, Inc., and Brilliant Corners (collectively “Recipient”). Either party may be referred to individually as the “Party” or collectively as “the Parties.”

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), more specifically the regulations found in Title 45 C.F.R., Parts 160 and 164, Subparts A and E (the “Privacy Rule”) and/or 45 C.F.R. Part 164, Subpart C (the “Security Rule”), as may be amended from time to time, which are applicable to the protection of any disclosure or use of Protected Health Information created, received, maintained or transmitted on behalf of IEHP (PHI) and/or electronic Protected Health Information created, received, maintained or transmitted on behalf of IEHP (ePHI) pursuant to this Agreement; and

WHEREAS, IEHP seeks to provide Recipient with access to certain PHI or ePHI for the purpose of providing housing units, intensive case management and community health services for qualified IEHP Members at Desert Haven Apartments (the “Project”); and

WHEREAS, the Parties intend to enter into this Agreement to address the requirements of the HIPAA Regulations as they apply to Recipient, including the establishment of permitted and required uses and disclosures (and appropriate limitations) of the PHI or ePHI accessed by Recipient;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Definitions. Unless otherwise specified in this Agreement, all capitalized terms have the same meanings as set forth in the HIPAA Regulations, as amended from time to time.
2. Responsibilities of Recipient. Recipient agrees to:
  - a. Not use or further disclose the PHI or ePHI other than as permitted by this Agreement or as otherwise required by law;
  - b. Use appropriate safeguards to prevent use or disclosure of the information in the PHI or ePHI other than as provided for by this Agreement;
  - c. Report to IEHP any use or disclosure of the information in the PHI or ePHI not provided for by this Agreement of which it becomes aware;
  - d. Ensure that any agents or subcontractors to whom it provides the PHI or ePHI agree to the same restrictions and conditions that apply to Recipient with respect to such information; and
  - e. Abide by the terms of the attached Business Associate Agreement (Attachment A).
3. Permitted Uses and Disclosures of the PHI or ePHI.
  - a. Except as otherwise specified herein, Recipient may use and/or disclose the PHI or ePHI necessary for the Project or as required by law.
  - b. Recipient shall receive or have access to only the following types of confidential PHI or ePHI from IEHP:
    - i. Identifying information on all active IEHP Members living at Desert Haven Apartments, including Member ID numbers, names, and dates of birth.
    - ii. Select information from Member health records subject to IEHP approval, including Member Primary Care Physicians (“PCP”), open referrals, prior utilization data, and prescription medications.
  - c. Recipient understands that this Agreement does not authorize the Recipient to have greater rights to use or disclose the information than that which is granted to IEHP pursuant to the HIPAA Regulations.
  - d. Recipient has designated the following individual(s) and/or classes of individuals, who are permitted to use or receive the PHI or ePHI for purposes of the Project:

***Interdisciplinary Care Team providing case management to individuals housed at Desert Haven Apartments.*** To the extent the classes of individuals are not part of Recipient's workforce who are directly involved in the Project, Recipient shall enter into a data use agreement, including the attached Business Associate Agreement, that complies with the HIPAA Regulations, prior to the release of the PHI or ePHI with the other classes of individuals.

- e. Recipient shall use the above-described PHI or ePHI for purposes of the Project only.

4. Term and Termination.

- a. Term. The term of this Agreement shall commence as of the Effective Date and terminate on July 31, 2025.
- b. Termination by Recipient. Recipient may terminate this Agreement at any time by providing written notice to IEHP and returning or destroying the PHI or ePHI.
- c. Termination by Covered Entity. IEHP may terminate this Agreement at any time by providing thirty (30) days prior written notice to Recipient.
- d. Termination for Breach. Upon IEHP's knowledge of a pattern or practice that constitutes a material breach of this Agreement by Recipient, IEHP may immediately and unilaterally terminate this Agreement. Alternatively, IEHP may provide an opportunity for Recipient to cure the breach or end the violation. If such efforts are not successful within the reasonable time period specified by IEHP, or if IEHP determines that cure of the breach is not possible, IEHP shall immediately discontinue disclosure of the PHI or ePHI to Recipient and report the problem to the Secretary of the Department of Health and Human Services or its designee.

5. Insurance.

- a. Throughout the term of this Agreement, Recipient shall maintain, at its sole cost and expense, policies for insurance providing coverage required by applicable law as well as any other insurance coverage Recipient deems prudent and customary in the exercise of Recipient's business operations as it specifically relates to the Project, including coverage for Recipient's potential negligence and liabilities assumed under this Agreement. Such coverages shall be in amounts as may be necessary to protect Recipient and IEHP (as necessary) in the discharge of its responsibilities and obligations under this Agreement. Upon request, Recipient shall furnish IEHP with evidence of such insurance coverage.

- 6. Notice. All correspondence and notices required or contemplated by this Agreement shall be delivered at the addresses set forth below, and are deemed submitted two (2) days after their deposit in the United States mail, postage prepaid:

IEHP:

Senior Director of Care Integration  
10801 6<sup>TH</sup> Street, Suite 120  
(909) 890-2000  
cc: legal@iehp.org

Housing Authority of the County of San Bernardino:

Maria Razo  
Executive Director  
715 East Brier Drive  
San Bernardino, California 92408  
(909) 890-0644

San Bernardino County Department of Behavioral Health:

Veronica Kelley, DSW, LCSW  
Director  
303 E. Vanderbilt Way  
San Bernardino, CA 92415  
(909) 388-0801

Valley Star Behavioral Health, Inc.:

Rick Klotz  
Regional Administrator  
6460 Victor Street  
Victorville, CA 92395  
(760) 245-8837

Step Up on Second Street, Inc.:

Tod Lipka  
President and CEO  
1328 2<sup>nd</sup> Street  
Santa Monica, CA 90401  
(310) 394-6883

Brilliant Corners:

William F. Pickel  
Executive Director  
1390 Market Street, Suite 405  
San Francisco, CA. 94102  
(415) 618-0012

Or to such other address(es) as the Parties may hereafter designate, in writing.

7. General Provisions.

- a. Construction of Terms. The terms of this Agreement shall be construed to give effect to applicable federal interpretative guidance regarding the HIPAA Regulations. A reference in this Agreement to a section in the HIPAA Regulations means the section(s) as in effect or as amended.
- b. No Third-Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- c. Independent Contractors. The Parties are independent contractors. Neither Party has the power or authority to act on behalf of the other Party as its agent. Nothing

- in this Agreement shall be construed to make the Parties hereto partners, joint venturers, or agents of or with each other, nor shall either Party so represent itself.
- d. Amendment. This Agreement shall not be amended or assigned by either Party without the prior written consent of the other. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Parties to comply with HIPAA Regulations.
  - e. Law and Venue. This Agreement shall be governed by the laws of California, without regard to its principles of conflicts of law. All actions and proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal courts located in the counties of San Bernardino or Riverside, State of California.
  - f. Entire Agreement/Severability. This Agreement constitutes the entire agreement between IEHP and Recipient, and supersedes all other prior and contemporaneous agreements, understandings, and commitments between them, relating to the subject matter hereof. The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions, and this Agreement shall be construed as if such invalid provision had been omitted.
  - g. Expense of Performance. Each Party shall bear its own expenses as to the sharing of data unless otherwise specified in this Agreement.
  - h. Survival. Unless otherwise provided herein, the rights and obligations of any Party which by their nature extend beyond the expiration or termination of this Agreement, shall continue in full force and effect, notwithstanding the expiration or termination of this Agreement.
  - i. Remedies. IEHP shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies IEHP may have at law or in equity in the event of an unauthorized use, access, or disclosure of the PHI or ePHI by Recipient or any agent or subcontractor of Recipient that received information from Recipient. Recipient hereby waives any requirement that IEHP post any bond or other security in the event any injunctive or equitable relief is sought by IEHP.
  - j. Ownership. The PHI or ePHI shall be and remain the property of IEHP. Recipient agrees that it acquires no title or rights to the PHI or ePHI.
  - k. Headings. Paragraph headings contained in this Agreement are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Agreement.
  - l. Counterparts/Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties' faxed signatures, and/or signatures scanned into PDF format, shall be effective to bind them to this Agreement.
  - m. Authority. The Parties certify that the individuals signing below have the proper authority to execute this Agreement on behalf of the Parties.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement.

Inland Empire Health Plan

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Housing Authority of the County of San Bernardino

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

San Bernardino County Department  
of Behavioral Health

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Mental Health Systems, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Step Up on Second Street, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Brilliant Corners

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT A**

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO  
AND  
SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH  
AND  
VALLEY STAR BEHAVIORAL HEALTH, INC  
AND  
STEP UP ON SECOND STREET, INC.  
AND  
BRILLIANT CORNERS FOR DESERT HAVEN APARTMENTS**

This HIPAA Business Associate Agreement (the “Agreement”) is an Attachment to the **Data Use Agreement** (the “Underlying Agreement”) between the Inland Empire Health Plan (“IEHP”) and Recipient(s) identified in the Underlying Agreement (“Business Associate”) as of the “Effective Date”, of the Underlying Agreement.

**RECITALS**

WHEREAS, IEHP and Business Associate entered into the Underlying Agreement pursuant to which Business Associate provides services to IEHP, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and/or certain electronic Protected Health Information (“ePHI”) may be made available to Business Associate for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), more specifically the regulations found in Title 45, C.F.R., Parts 160 and 164, Subparts A and E (the “Privacy Rule”) and/or 45 C.F.R. Part 164, Subpart C (the “Security Rule”), as may be amended from time to time, which are applicable to the protection of any disclosure or use of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, the provisions of Subtitle D entitled “Privacy” of the Health Information Technology for Economic and Clinical Health Act (“HITECH”) of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the implementing regulations adopted thereunder, as may be amended from time to time, impose certain requirements on business associates; and

WHEREAS, IEHP is a Covered Entity, as defined in the Privacy Rule; and,

WHEREAS, Business Associate, when on behalf of IEHP, creates, receives, maintains or transmits PHI and/or ePHI, is a business associate as defined in the Privacy Rule; and,

WHEREAS, the parties intend to enter into this Agreement to address the requirements of HIPAA, HITECH, Privacy Rule, and Security Rule as they apply to Business Associate as a business associate of IEHP, including the establishment of permitted and required uses and disclosures (and appropriate limitations and conditions on such uses and disclosures) of PHI and/or ePHI by Business

Associate that is created or received in the course of performing services on behalf of IEHP, and to incorporate the business associate obligations set forth in HITECH; and,

WHEREAS, the parties agree that any disclosure or use of PHI and/or ePHI be in compliance with the Privacy Rule, Security Rule, HITECH, or other applicable law.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

**1. DEFINITIONS**

A. Unless otherwise provided in this Agreement, or specifically defined in Paragraph B of this Section 1, the capitalized terms shall have the same meanings as set forth in the Privacy Rule, Security Rule, and/or HITECH, as may be amended from time to time.

B. Specific Definitions:

- (1) "Breach," when used in connection with Unsecured PHI, means, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of PHI in a manner not permitted under the Privacy Rule (45 C.F.R. Part 164, Subpart E), which compromises the security or privacy of the PHI. Except as otherwise excluded under 45 C.F.R. § 164.402, such acquisition, access, use or disclosure is presumed to be a Breach unless the Covered Entity or Business Associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:
  - a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
  - b) The unauthorized person who used the PHI or to whom the disclosure was made;
  - c) Whether the PHI was actually acquired or viewed; and
  - d) The extent to which the risk to PHI has been mitigated.
- (2) "Discovered" means the first day on which such Breach is known to such Covered Entity or Business Associate, respectively, (including any person, other than the individual committing the Breach, that is an employee, officer or other agent of such entity or associate, respectively) or should reasonably have been known to such Covered Entity or Business Associate (or person) to have occurred.
- (3) "Electronic Protected Health Information" ("ePHI") means, as defined in 45 C.F.R. § 160.103, PHI transmitted by or maintained in electronic media, and for purposes of this Agreement, is limited to the ePHI that Business Associate creates, receives, maintains or transmits on behalf of IEHP.



- (4) “Protected Health Information” (“PHI”) shall generally have the meaning given such term in 45 C.F.R. § 160.103, which includes ePHI, and for purposes of this Agreement, is limited to PHI, including ePHI, that Business Associate creates, receives, maintains or transmits on behalf of IEHP.
- (5) “Secretary” means the Secretary of the U.S. Department of Health and Human Services or his/her designee.
- (6) “Subcontractor” means a person to whom a business associate delegates a function, activity, or service other than in the capacity of a member of the workforce of such business associate.
- (7) “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in the guidance issued under 42 U.S.C. § 17932(h)(2).

2. **SCOPE OF USE AND DISCLOSURE BY BUSINESS ASSOCIATE OF PHI AND/OR EPHI**

- A. Business Associate shall be permitted to use PHI and/or ePHI disclosed to it by IEHP:
  - (1) On behalf of IEHP, or to provide services to IEHP for the purposes contained herein, if such use or disclosure would not violate the Privacy Rule, Security Rule, and/or HITECH.
  - (2) As necessary to perform any and all of its obligations under the Underlying Agreement.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or required by this Agreement or required by law, Business Associate may:
  - (1) Use the PHI and/or ePHI in its possession for its proper management and administration and to fulfill any legal obligations.
  - (2) Disclose the PHI and/or ePHI in its possession to a third party for the purpose of Business Associate’s proper management and administration or to fulfill any legal responsibilities of Business Associate, only if:
    - a) The disclosure is required by law; or

- b) Business Associate obtains written assurances from any person or organization to which Business Associate will disclose such PHI and/or ePHI that the person or organization will:
  - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose of which Business Associate disclosed it to the third party, or as required by law; and
  - ii. Notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.
- (3) Use the PHI and/or ePHI to provide Data Aggregation services relating to the Health Care Operations of IEHP if authorized by the Underlying Agreement or pursuant to the written request of IEHP.
- (4) De-identify any and all PHI and/or ePHI of IEHP received by Business Associate under this Agreement provided that the De-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.

C. Business Associate shall not:

- (1) Use or disclose PHI and/or ePHI it receives from IEHP, nor from another business associate of IEHP, except as permitted or required by this Agreement, or as required by law.
- (2) Perform any services (including any and all subcontracted services), which involves creating, receiving, maintaining or transmitting PHI and/or ePHI outside the United States of America.
- (3) Disclose PHI and/or ePHI not authorized by the Underlying Agreement or this Agreement without patient authorization or De-identification of the PHI and/or ePHI as authorized in writing by IEHP.
- (4) Make any disclosure of PHI and/or ePHI that IEHP would be prohibited from making.
- (5) Use or disclose PHI for fundraising or marketing purposes.
- (6) Disclose PHI, except as otherwise required by law, to a health plan for payment or healthcare operations purposes if the individual has requested this restriction, and the PHI solely relates to a health care item or service that is paid in full by the individual or person (other than the health plan) on behalf of the individual (45 C.F.R. § 164.522(a)(1)(vi)).

- (7) Directly or indirectly receive remuneration in exchange for PHI nor engage in any acts that would constitute a Sale of PHI, as defined in 45 C.F.R. § 164.502(a)(5)(ii), except with the prior written consent of IEHP and as permitted by and in compliance with 45 C.F.R. § 164.508(a)(4); however, this prohibition shall not affect payment by IEHP to Business Associate for services provided pursuant to the Underlying Agreement.
- (8) Use or disclose PHI that is Genetic Information for Underwriting Purposes, as those terms are defined in 45 C.F.R. §§ 160.103 and 164.502(a)(5)(i), respectively.
- D. Business Associate agrees that in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA and/or HITECH (including but not limited to prohibiting the disclosure of mental health, and/or substance abuse records), the more stringent laws and/or regulations shall control the disclosure of PHI.

### **3. OBLIGATIONS OF IEHP**

- A. Notification of Restrictions to Use or Disclosure of PHI. IEHP agrees that it will make its best efforts to promptly notify Business Associate in writing of any restrictions, limitations, or changes on the use, access and disclosure of PHI and/or ePHI agreed to by IEHP in accordance with 42 U.S.C. § 17935(a), that may affect Business Associate's ability to perform its obligations under the Underlying Agreement, or this Agreement.
- B. Proper Use of PHI. IEHP shall not request Business Associate to use, access, or disclose PHI and/or ePHI in any manner that would not be permissible under the Privacy Rule, Security Rule, and/or HITECH.
- C. Authorizations. IEHP will obtain any authorizations necessary for the use, access, or disclosure of PHI and/or ePHI, so that Business Associate can perform its obligations under this Agreement and/or the Underlying Agreement.
- D. Actions in Response to Business Associate Breach. IEHP shall complete the following in the event that IEHP has determined that Business Associate has a Breach:
  - (1) Determine appropriate method of notification to the patient/client(s) regarding a Breach as outlined in 45 C.F.R. § 164.404(d).
  - (2) Send notification to the patient/client(s) without unreasonable delay but in no case later than sixty (60) days of Discovery of the Breach with at least the minimal required elements as follows:
    - a) Brief description of what happened, including the date of the Breach and the date of Discovery;

- b) Description of the types of Unsecured PHI involved in the Breach (such as name, date of birth, home address, Social Security number, medical insurance, etc.);
- c) Steps patient/client(s) should take to protect themselves from potential harm resulting from the Breach;
- d) Brief description of what is being done to investigate the Breach, to mitigate harm to patient/client(s) and to protect against any further Breaches; and
- e) Contact procedures for patient/client(s) to ask questions or learn additional information, which must include a toll-free telephone number, an E-Mail address, website or postal address.

(3) Determine if notice is required to the Secretary.

(4) If required, submit Breach information to the Secretary within the required timeframe, in accordance with 45 C.F.R. § 164.408(b).

- E. Contract Violations by Business Associate. Pursuant to 45 C.F.R. § 164.504(e)(1)(ii), if IEHP knows of a pattern of activity or practice of the Business Associate that constitutes a material breach or violation of the Business Associate's obligations under this Agreement, IEHP must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, IEHP shall terminate the Agreement, if feasible.

#### **4. OBLIGATIONS OF BUSINESS ASSOCIATE**

- A. Minimum Necessary. Business Associate shall request, use, access or disclose only the minimum amount of PHI and/or ePHI as permitted or required by this Agreement and as necessary to accomplish the intended purpose of the request, use, access or disclosure in accordance with the Privacy Rule (45 C.F.R. § 164.502(b)(1)).
- B. Appropriate Safeguards. Business Associate shall use reasonable and appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Agreement. Business Associate shall implement administrative, physical and technical safeguards in accordance with the Security Rule under 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316:
  - (1) Business Associate shall issue and change procedures from time to time to improve electronic data and file security as needed to comply with the measures that may be required by the Privacy Rule or the Security Rule, as applicable, and at all times use an NIST-Approved Technology for all PHI and/or ePHI that is in motion, stored or to be destroyed.

- (2) Business Associate shall extend such policies and procedures, if applicable, for the protection of physical PHI to prevent, detect, contain and correct security violations, as well as to limit unauthorized physical access to the facility or facilities in which the PHI is housed.
- C. Mitigation. Business Associate shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use, access or disclosure of PHI and/or ePHI by Business Associate in violation of this Agreement.
- D. Access to Records. Business Associate shall make internal practices, books, and records including policies and procedures, relating to the use, access, disclosure, and privacy protection of PHI received from IEHP, or created or received by Business Associate on behalf of IEHP, available to the Secretary, for purposes of determining, investigating or auditing Business Associate's and/or IEHP's compliance with the Privacy and Security Rules and/or HITECH, subject to any applicable legal restrictions. Business Associate shall also cooperate with IEHP should IEHP elect to conduct its own such investigation and analysis.
- E. Carrying Out IEHP's Obligations. To the extent Business Associate is to carry out one or more of IEHP's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that applies to IEHP in the performance of such obligations.
- F. Subcontractors. In accordance with 45 C.F.R. §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall require Subcontractors that create, receive, maintain or transmit PHI and/or ePHI on behalf of Business Associate, to agree to the same restrictions, conditions and requirements that apply to Business Associate with respect to the PHI and/or ePHI, including the restrictions, conditions and requirements set forth in this Agreement.
- G. Contract Violations by Subcontractors. Pursuant to 45 C.F.R. § 164.504(e)(1)(iii), if Business Associate knows of a pattern of activity or practice of the Subcontractor that constitutes a material breach or violation of the Subcontractor's obligations under the business associate contract between Business Associate and Subcontractor, Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, Business Associate shall terminate the business associate contract with the Subcontractor if feasible.
- H. Workforce Training. Business Associate warrants that all employees who use, access or disclose PHI and/or ePHI shall be properly trained to comply with Privacy Rule, Security Rule, HITECH, or other such applicable law.
- I. Patient Confidentiality Laws and Regulations. Business Associate agrees to obtain and maintain knowledge of the applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.

J. Reporting of Improper Access, Use or Disclosure Breach. Business Associate shall report to IEHP any unauthorized use, access or disclosure of Unsecured PHI and/or ePHI or any other security incident with respect to PHI no later than fifteen (15) days after Discovery of the potential Breach (“Notice Date”). Business Associate shall notify IEHP through the IEHP Compliance Department via telephone to the Compliance Hotline (866) 355-9038, via email to the Compliance Mailbox [compliance@iehp.org](mailto:compliance@iehp.org), or via facsimile to the Compliance Fax (909) 477-8536. Upon Discovery of the potential Breach, Business Associate shall complete the following actions:

- (1) Provide IEHP’s Compliance Department with the information required by 45 C.F.R. §§164.410 and 164.404, which shall include, but not be limited to:
  - a) The identification of each individual (IEHP Members) whose Unsecured PHI has been, or is reasonably believed by Business Associate, to have been accessed, acquired, used or disclosed;
  - b) Date(s) of Breach: MM/DD/YYYY;
  - c) Date(s) of Discovery of Breach: MM/DD/YYYY;
  - d) Approximate number of individuals (IEHP Members) affected by the Breach;
  - e) Type of Breach, i.e., theft, loss, improper disposal, unauthorized access, hacking/IT incident (for additional selections, see U.S. Department of Health & Human Services, Health Information Privacy);
  - f) Location of breached information, i.e., laptop, desktop computer, network server, E-Mail, other portable electronic device (see U.S. Department of Health & Human Services, Health Information Privacy);
  - g) Type of PHI involved in the Breach, i.e., demographic information, financial information, clinical information (see U.S. Department of Health & Human Services, Health Information Privacy);
  - h) Safeguards in place prior to Breach, i.e., firewalls, packet filtering (router-based), encrypted wireless (see U.S. Department of Health & Human Services, Health Information Privacy);
  - i) Actions taken in response to Breach, i.e., mitigation, protection against any further Breaches, policies and procedures (see U.S. Department of Health & Human Services, Health Information Privacy); and
  - j) Any steps individuals should take to protect themselves from potential harm resulting from the Breach.

- (2) Conduct and document a risk assessment by investigating, without reasonable delay and in no case later than twenty (20) calendar days of Discovery, the potential Breach to determine the following:
  - a) Whether there has been an impermissible use, acquisition, access or disclosure of PHI and/or ePHI under the Privacy Rule;
  - b) Whether an impermissible use or disclosure compromises the security or privacy of the PHI and/or ePHI, including whether it can be demonstrated that there is a low probability that PHI and/or ePHI has been compromised based on a risk assessment of at least four (4) factors specified in Section 1.B(1) defining Breach; and
  - c) Whether the incident falls under one of the Breach exceptions.
- (3) Provide the completed risk assessment and investigation documentation to IEHP's Compliance Department within twenty-five (25) calendar days of Discovery of the potential Breach, and collaborate with IEHP on making a decision on whether a Breach has occurred.
  - a) If a Breach has not occurred, notification to patient/client(s) is not required;
  - b) If a Breach has occurred, notification to the patient/client(s) is required and Business Associate must provide IEHP with affected patient/client(s) names and contact information so that IEHP can provide notification.
- (4) Make available to governing State and Federal agencies in a time and manner designated by such agencies, any policies, procedures, internal practices and records relating to a potential Breach for the purposes of audit; cooperate with IEHP should IEHP elect to conduct its own such investigation and analysis.
- (5) Should the Breach of Unsecured PHI be caused solely by Business Associate's failure to comply with one or more of its obligations under this BAA, Privacy Rule, Security Rule and/or HITECH Provisions, Business Associate shall pay for any and all costs associated with providing all legally required notifications to individuals, media outlets and the Secretary.
- (6) Should the Breach of Unsecured PHI involve more than 500 residents of a single State or jurisdiction, Business Associate shall provide to IEHP, no later than the Notice Date, the information necessary for IEHP to prepare the notice to media outlets as set forth in 45 C.F.R. § 164.406.
- (7) Should the Breach of Unsecured PHI involve 500 or more individuals, Business Associate shall provide to IEHP, no later than the Notice Date, the information necessary for IEHP to prepare the notice to the Secretary as set forth in 45 C.F.R. § 164.408.

- (8) Should the Breach of Unsecured PHI involve less than 500 individuals, Business Associate shall maintain a log of such Breaches and provide such log to IEHP, for submission to the Secretary, on an annual basis and not later than forty-five (45) days after the end of each calendar year.

**5. ACCESS TO PHI, AMENDMENT AND DISCLOSURE ACCOUNTING**

Business Associate agrees to:

- A. Provide access, at the request of IEHP, within five (5) days, to PHI, including ePHI if maintained electronically, in a Designated Record Set, to IEHP, or to an individual or individual's designee as directed by IEHP, as necessary for IEHP to satisfy its obligations under 45 C.F.R. § 164.524.
- B. Make any amendment(s) to PHI in a Designated Record Set that IEHP directs or agrees to, at the request of IEHP or an individual, pursuant to 45 C.F.R. § 164.526, within thirty (30) days of the request of IEHP.
- C. Assist IEHP in meeting its disclosure accounting under HIPAA:
  - (1) Business Associate agrees to document such disclosures of PHI and information related to such disclosures, as would be required for IEHP to respond to a request by an individual for an accounting of disclosures of PHI.
  - (2) Business Associate agrees to provide to IEHP, within thirty (30) days, information collected in accordance with this Section to permit IEHP to make an accounting of disclosures of PHI by Business Associate in accordance with 45 C.F.R. § 164.528 and HITECH.
  - (3) Business Associate shall have available for IEHP the information required by this Section for the ten (10) years preceding IEHP's request for information.

**6. TERM AND TERMINATION**

- A. Term. This Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement.
- B. Termination for Cause. IEHP may terminate the Underlying Agreement, effective immediately, if IEHP, in its sole discretion, determines that Business Associate has breached a material provision of this Agreement relating to the privacy and/or security of the PHI. Alternatively, IEHP may choose to provide Business Associate with notice of the existence of an alleged material breach and afford Business Associate with an opportunity to cure the alleged material breach. In the event Business Associate fails to cure the breach to the satisfaction of IEHP in a timely manner, IEHP reserves the right to immediately terminate the Underlying Agreement.



- (1) Effect of Termination. Upon termination of the Underlying Agreement, for any reason, Business Associate shall return or destroy all PHI and/or ePHI received from IEHP, or created or received by Business Associate on behalf of IEHP, no later than sixty (60) days after the date of termination. Business Associate shall certify such destruction, in writing, to IEHP. This provision shall apply to all PHI and/or ePHI which is in possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI and/or ePHI.
- (2) Destruction not Feasible. In the event that Business Associate determines that returning or destroying the PHI and/or ePHI is not feasible, Business Associate shall provide written notification to IEHP of the conditions which make such return or destruction not feasible. Upon determination by Business Associate that return or destruction of PHI and/or ePHI is not feasible, Business Associate shall extend the protections, limitations, and restrictions of this Agreement to such PHI and/or ePHI retained by Business Associate, its subcontractors, employees or agents, and to limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as such PHI and/or ePHI is maintained.

## **7. HOLD HARMLESS/INDEMNIFICATION**

With respect to the subject matter in this Agreement, the following shall be applicable:

The Business Associate agrees to indemnify, defend and hold harmless IEHP and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, penalties, injuries, costs and expenses (including costs for reasonable attorneys fees) that are caused by or result from the acts or omissions of Business Associate, its officers, agents, employees and subcontractors, with respect to the use, access, maintenance or disclosure of IEHP's PHI or ePHI, including without limitation, any Breach of PHI or ePHI of any expenses incurred by IEHP in providing required Breach notifications.

With respect to any action or claim subject to indemnification herein by Business Associate, Business Associate shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of IEHP, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of IEHP; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Business Associate's indemnification to IEHP as set forth herein. Business Associate's obligation to defend, indemnify and hold harmless IEHP shall be subject to IEHP having given Business Associate written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Business Associate's expense, for the defense or settlement thereof. Business Associate's obligation hereunder shall be satisfied when Business Associate has provided to IEHP the appropriate form of dismissal relieving IEHP from any liability for the action or claim involved.

The specified insurance limits required in the Underlying Agreement shall in no way limit or circumscribe Business Associate's obligations to indemnify and hold harmless IEHP herein from third party claims arising from the issues of this Agreement.

In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement, this indemnification shall only apply to the subject issues included within this Agreement.

## **8. GENERAL PROVISIONS**

- A. Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for IEHP to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.
- B. Survival. Notwithstanding Section 6.A of this Agreement, the respective rights and obligations of this Agreement shall survive the termination or expiration of this Agreement.
- C. Regulatory References. A reference in this Agreement to a section in the Privacy Rule, Security Rule, and/or HITECH means the section(s) as in effect or as amended.
- D. Interpretation. This Attachment shall be construed to be a part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of HIPAA and HITECH. Any ambiguity in this Agreement and the Underlying Agreement shall be resolved to permit IEHP to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.

- E. Remedies. Business Associate agrees that IEHP shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which IEHP may have at law or in equity in the event of an unauthorized use, access, or disclosure of PHI by Business Associate or any agent or subcontractor of Business Associate that received PHI from Business Associate.
- F. Ownership. The PHI shall be and remain the property of IEHP. Business Associate agrees that it acquires no title or rights to the PHI.
- G. Headings. Paragraph headings contained in this Agreement are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Agreement.

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**July 14, 2020**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Data Use Agreement for Golden Apartments**

## **RECOMMENDATION(S)**

1. Approve a data use agreement, retroactive to June 1, 2020, between the Housing Authority of the County of San Bernardino, Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., and Brilliant Corners for permanent supportive housing development, Golden Apartments, for a five-year term through May 31, 2025.
2. Authorize and direct the Executive Director to execute and deliver the agreement to Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., and Brilliant Corners and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.**

**HACSB communication is open, honest and consistent.**

**HACSB clients, programs, and properties are embraced by all communities.**

**HACSB clients live in safe and desirable homes and communities where they can develop and prosper.**

## **FINANCIAL IMPACT**

Approval of the proposed non-financial agreement will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

## **BACKGROUND INFORMATION**

In December 2019, HACSB opened its first permanent supportive housing development, Golden Apartments, in the City of San Bernardino. Golden Apartments is a 38-unit apartment complex specifically for housing chronically homeless individuals from San Bernardino County. In addition to creating a quality living space, the purpose of this development is also to provide extended social services on-site, in order to better serve the needs of the residents. HACSB has developed partnerships with Inland Empire Health Plan (IEHP), County of San Bernardino Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., and Brilliant Corners to deliver ongoing supportive services to the residents at this property. Approval of this agreement will allow the mutual partners to access certain protected health information for the purpose of providing housing units, intensive case management and community health services for qualified IEHP Members at Golden Apartments.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 25, 2020

**DATA USE AGREEMENT**  
**BETWEEN**  
**INLAND EMPIRE HEALTH PLAN**  
**AND**  
**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**  
**AND**  
**SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH**  
**AND**  
**MENTAL HEALTH SYSTEMS, INC.**  
**AND**  
**STEP UP ON SECOND STREET, INC.**  
**AND**  
**BRILLIANT CORNERS**  
**FOR**  
**GOLDEN APARTMENTS**

This Data Use Agreement (“Agreement”) is made as of this 1st day of June, 2020, (“Effective Date”) by and between Inland Empire Health Plan (“IEHP” or “Covered Entity”), and , the Housing Authority of the County of San Bernardino, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., and Brilliant Corners (collectively “Recipient”). Either party may be referred to individually as the “Party” or collectively as “the Parties.”

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), more specifically the regulations found in Title 45 C.F.R., Parts 160 and 164, Subparts A and E (the “Privacy Rule”) and/or 45 C.F.R. Part 164, Subpart C (the “Security Rule”), as may be amended from time to time, which are applicable to the protection of any disclosure or use of Protected Health Information created, received, maintained or transmitted on behalf of IEHP (PHI) and/or electronic Protected Health Information created, received, maintained or transmitted on behalf of IEHP (ePHI) pursuant to this Agreement; and

WHEREAS, IEHP seeks to provide Recipient with access to certain PHI or ePHI for the purpose of providing housing units, intensive case management and community health services for qualified IEHP Members at Golden Apartments (the “Project”); and

WHEREAS, the Parties intend to enter into this Agreement to address the requirements of the HIPAA Regulations as they apply to Recipient, including the establishment of permitted and required uses and disclosures (and appropriate limitations) of the PHI or ePHI accessed by Recipient;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Definitions. Unless otherwise specified in this Agreement, all capitalized terms have the same meanings as set forth in the HIPAA Regulations, as amended from time to time.
2. Responsibilities of Recipient. Recipient agrees to:
  - a. Not use or further disclose the PHI or ePHI other than as permitted by this Agreement or as otherwise required by law;
  - b. Use appropriate safeguards to prevent use or disclosure of the information in the PHI or ePHI other than as provided for by this Agreement;
  - c. Report to IEHP any use or disclosure of the information in the PHI or ePHI not provided for by this Agreement of which it becomes aware;
  - d. Ensure that any agents or subcontractors to whom it provides the PHI or ePHI agree to the same restrictions and conditions that apply to Recipient with respect to such information; and
  - e. Abide by the terms of the attached Business Associate Agreement (Attachment A).
3. Permitted Uses and Disclosures of the PHI or ePHI.
  - a. Except as otherwise specified herein, Recipient may use and/or disclose the PHI or ePHI necessary for the Project or as required by law.
  - b. Recipient shall receive or have access to only the following types of confidential PHI or ePHI from IEHP:
    - i. Identifying information on all active IEHP Members living at Golden Apartments, including Member ID numbers, names, and dates of birth.
    - ii. Select information from Member health records subject to IEHP approval, including Member Primary Care Physicians (“PCP”), open referrals, prior utilization data, and prescription medications.
  - c. Recipient understands that this Agreement does not authorize the Recipient to have greater rights to use or disclose the information than that which is granted to IEHP pursuant to the HIPAA Regulations.
  - d. Recipient has designated the following individual(s) and/or classes of individuals, who are permitted to use or receive the PHI or ePHI for purposes of the Project:  
***Interdisciplinary Care Team providing case management to individuals housed***

*at Golden Apartments.* To the extent the classes of individuals are not part of Recipient's workforce who are directly involved in the Project, Recipient shall enter into a data use agreement, including the attached Business Associate Agreement, that complies with the HIPAA Regulations, prior to the release of the PHI or ePHI with the other classes of individuals.

- e. Recipient shall use the above-described PHI or ePHI for purposes of the Project only.

#### 4. Term and Termination.

- a. Term. The term of this Agreement shall commence as of the Effective Date and terminate on May 31, 2025.
- b. Termination by Recipient. Recipient may terminate this Agreement at any time by providing written notice to IEHP and returning or destroying the PHI or ePHI.
- c. Termination by Covered Entity. IEHP may terminate this Agreement at any time by providing thirty (30) days prior written notice to Recipient.
- d. Termination for Breach. Upon IEHP's knowledge of a pattern or practice that constitutes a material breach of this Agreement by Recipient, IEHP may immediately and unilaterally terminate this Agreement. Alternatively, IEHP may provide an opportunity for Recipient to cure the breach or end the violation. If such efforts are not successful within the reasonable time period specified by IEHP, or if IEHP determines that cure of the breach is not possible, IEHP shall immediately discontinue disclosure of the PHI or ePHI to Recipient and report the problem to the Secretary of the Department of Health and Human Services or its designee.

#### 5. Insurance.

- a. Throughout the term of this Agreement, Recipient shall maintain, at its sole cost and expense, policies for insurance providing coverage required by applicable law as well as any other insurance coverage Recipient deems prudent and customary in the exercise of Recipient's business operations as it specifically relates to the Project, including coverage for Recipient's potential negligence and liabilities assumed under this Agreement. Such coverages shall be in amounts as may be necessary to protect Recipient and IEHP (as necessary) in the discharge of its responsibilities and obligations under this Agreement. Upon request, Recipient shall furnish IEHP with evidence of such insurance coverage.

- 6. Notice. All correspondence and notices required or contemplated by this Agreement shall be delivered at the addresses set forth below, and are deemed submitted two (2) days after their deposit in the United States mail, postage prepaid:



IEHP:

Senior Director of Care Integration  
10801 6<sup>TH</sup> Street, Suite 120  
(909) 890-2000  
cc: legal@iehp.org

Housing Authority of the County of San Bernardino:

Maria Razo  
Executive Director  
715 East Brier Drive  
San Bernardino, California 92408  
(909) 890-0644

San Bernardino County Department of Behavioral Health:

Veronica Kelley  
Director  
303 E. Vanderbilt Way, Suite 100  
San Bernardino, CA 92415  
(909) 388-0800

Mental Health Systems, Inc.:

James C Callaghan Jr.  
President & CEO  
9465 Farnham Street  
San Diego, CA 92123  
(858) 573-2600

Step Up on Second Street, Inc.:

Tod Lipka  
President and CEO  
1328 2<sup>nd</sup> Street  
Santa Monica, CA 90401  
(310) 394-6883

Brilliant Corners:

William F. Pickel  
Executive Director  
1390 Market Street, Suite 405  
San Francisco, CA. 94102  
(415) 618-0012

Or to such other address(es) as the Parties may hereafter designate, in writing.

7. General Provisions.

- a. Construction of Terms. The terms of this Agreement shall be construed to give effect to applicable federal interpretative guidance regarding the HIPAA Regulations. A reference in this Agreement to a section in the HIPAA Regulations means the section(s) as in effect or as amended.
- b. No Third-Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- c. Independent Contractors. The Parties are independent contractors. Neither Party has the power or authority to act on behalf of the other Party as its agent. Nothing

- in this Agreement shall be construed to make the Parties hereto partners, joint venturers, or agents of or with each other, nor shall either Party so represent itself.
- d. Amendment. This Agreement shall not be amended or assigned by either Party without the prior written consent of the other. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Parties to comply with HIPAA Regulations.
  - e. Law and Venue. This Agreement shall be governed by the laws of California, without regard to its principles of conflicts of law. All actions and proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal courts located in the counties of San Bernardino or Riverside, State of California.
  - f. Entire Agreement/Severability. This Agreement constitutes the entire agreement between IEHP and Recipient, and supersedes all other prior and contemporaneous agreements, understandings, and commitments between them, relating to the subject matter hereof. The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions, and this Agreement shall be construed as if such invalid provision had been omitted.
  - g. Expense of Performance. Each Party shall bear its own expenses as to the sharing of data unless otherwise specified in this Agreement.
  - h. Survival. Unless otherwise provided herein, the rights and obligations of any Party which by their nature extend beyond the expiration or termination of this Agreement, shall continue in full force and effect, notwithstanding the expiration or termination of this Agreement.
  - i. Remedies. IEHP shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies IEHP may have at law or in equity in the event of an unauthorized use, access, or disclosure of the PHI or ePHI by Recipient or any agent or subcontractor of Recipient that received information from Recipient. Recipient hereby waives any requirement that IEHP post any bond or other security in the event any injunctive or equitable relief is sought by IEHP.
  - j. Ownership. The PHI or ePHI shall be and remain the property of IEHP. Recipient agrees that it acquires no title or rights to the PHI or ePHI.
  - k. Headings. Paragraph headings contained in this Agreement are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Agreement.
  - l. Counterparts/Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties' faxed signatures, and/or signatures scanned into PDF format, shall be effective to bind them to this Agreement.
  - m. Authority. The Parties certify that the individuals signing below have the proper authority to execute this Agreement on behalf of the Parties.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement.

Inland Empire Health Plan

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Housing Authority of the County of San Bernardino

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

San Bernardino County Department  
of Behavioral Health

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Mental Health Systems, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Step Up on Second Street, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Brilliant Corners

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT A**

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO  
AND  
SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH  
AND  
MENTAL HEALTH SYSTEMS, INC  
AND  
STEP UP ON SECOND STREET, INC.  
AND  
BRILLIANT CORNERS FOR GOLDEN APARTMENTS**

This HIPAA Business Associate Agreement (the “Agreement”) is an Attachment to the **Data Use Agreement** (the “Underlying Agreement”) between the Inland Empire Health Plan (“IEHP”) and Recipient(s) identified in the Underlying Agreement (“Business Associate”) as of the “Effective Date”, of the Underlying Agreement.

**RECITALS**

WHEREAS, IEHP and Business Associate entered into the Underlying Agreement pursuant to which Business Associate provides services to IEHP, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and/or certain electronic Protected Health Information (“ePHI”) may be made available to Business Associate for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), more specifically the regulations found in Title 45, C.F.R., Parts 160 and 164, Subparts A and E (the “Privacy Rule”) and/or 45 C.F.R. Part 164, Subpart C (the “Security Rule”), as may be amended from time to time, which are applicable to the protection of any disclosure or use of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, the provisions of Subtitle D entitled “Privacy” of the Health Information Technology for Economic and Clinical Health Act (“HITECH”) of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the implementing regulations adopted thereunder, as may be amended from time to time, impose certain requirements on business associates; and

WHEREAS, IEHP is a Covered Entity, as defined in the Privacy Rule; and,

WHEREAS, Business Associate, when on behalf of IEHP, creates, receives, maintains or transmits PHI and/or ePHI, is a business associate as defined in the Privacy Rule; and,

WHEREAS, the parties intend to enter into this Agreement to address the requirements of HIPAA, HITECH, Privacy Rule, and Security Rule as they apply to Business Associate as a business associate of IEHP, including the establishment of permitted and required uses and disclosures (and

appropriate limitations and conditions on such uses and disclosures) of PHI and/or ePHI by Business Associate that is created or received in the course of performing services on behalf of IEHP, and to incorporate the business associate obligations set forth in HITECH; and,

WHEREAS, the parties agree that any disclosure or use of PHI and/or ePHI be in compliance with the Privacy Rule, Security Rule, HITECH, or other applicable law.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

## **1. DEFINITIONS**

A. Unless otherwise provided in this Agreement, or specifically defined in Paragraph B of this Section 1, the capitalized terms shall have the same meanings as set forth in the Privacy Rule, Security Rule, and/or HITECH, as may be amended from time to time.

B. Specific Definitions:

(1) “Breach,” when used in connection with Unsecured PHI, means, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of PHI in a manner not permitted under the Privacy Rule (45 C.F.R. Part 164, Subpart E), which compromises the security or privacy of the PHI. Except as otherwise excluded under 45 C.F.R. § 164.402, such acquisition, access, use or disclosure is presumed to be a Breach unless the Covered Entity or Business Associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

- a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- b) The unauthorized person who used the PHI or to whom the disclosure was made;
- c) Whether the PHI was actually acquired or viewed; and
- d) The extent to which the risk to PHI has been mitigated.

(2) “Discovered” means the first day on which such Breach is known to such Covered Entity or Business Associate, respectively, (including any person, other than the individual committing the Breach, that is an employee, officer or other agent of such entity or associate, respectively) or should reasonably have been known to such Covered Entity or Business Associate (or person) to have occurred.

(3) “Electronic Protected Health Information” (“ePHI”) means, as defined in 45 C.F.R. § 160.103, PHI transmitted by or maintained in electronic media, and for purposes of this Agreement, is limited to the ePHI that Business Associate creates, receives, maintains or transmits on behalf of IEHP.

- (4) “Protected Health Information” (“PHI”) shall generally have the meaning given such term in 45 C.F.R. § 160.103, which includes ePHI, and for purposes of this Agreement, is limited to PHI, including ePHI, that Business Associate creates, receives, maintains or transmits on behalf of IEHP.
- (5) “Secretary” means the Secretary of the U.S. Department of Health and Human Services or his/her designee.
- (6) “Subcontractor” means a person to whom a business associate delegates a function, activity, or service other than in the capacity of a member of the workforce of such business associate.
- (7) “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in the guidance issued under 42 U.S.C. § 17932(h)(2).

**2. SCOPE OF USE AND DISCLOSURE BY BUSINESS ASSOCIATE OF PHI AND/OR EPHI**

A. Business Associate shall be permitted to use PHI and/or ePHI disclosed to it by IEHP:

- (1) On behalf of IEHP, or to provide services to IEHP for the purposes contained herein, if such use or disclosure would not violate the Privacy Rule, Security Rule, and/or HITECH.
- (2) As necessary to perform any and all of its obligations under the Underlying Agreement.

B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or required by this Agreement or required by law, Business Associate may:

- (1) Use the PHI and/or ePHI in its possession for its proper management and administration and to fulfill any legal obligations.
- (2) Disclose the PHI and/or ePHI in its possession to a third party for the purpose of Business Associate’s proper management and administration or to fulfill any legal responsibilities of Business Associate, only if:
  - a) The disclosure is required by law; or

- b) Business Associate obtains written assurances from any person or organization to which Business Associate will disclose such PHI and/or ePHI that the person or organization will:
  - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose of which Business Associate disclosed it to the third party, or as required by law; and
  - ii. Notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.
- (3) Use the PHI and/or ePHI to provide Data Aggregation services relating to the Health Care Operations of IEHP if authorized by the Underlying Agreement or pursuant to the written request of IEHP.
- (4) De-identify any and all PHI and/or ePHI of IEHP received by Business Associate under this Agreement provided that the De-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.

C. Business Associate shall not:

- (1) Use or disclose PHI and/or ePHI it receives from IEHP, nor from another business associate of IEHP, except as permitted or required by this Agreement, or as required by law.
- (2) Perform any services (including any and all subcontracted services), which involves creating, receiving, maintaining or transmitting PHI and/or ePHI outside the United States of America.
- (3) Disclose PHI and/or ePHI not authorized by the Underlying Agreement or this Agreement without patient authorization or De-identification of the PHI and/or ePHI as authorized in writing by IEHP.
- (4) Make any disclosure of PHI and/or ePHI that IEHP would be prohibited from making.
- (5) Use or disclose PHI for fundraising or marketing purposes.
- (6) Disclose PHI, except as otherwise required by law, to a health plan for payment or healthcare operations purposes if the individual has requested this restriction, and the PHI solely relates to a health care item or service that is paid in full by the individual or person (other than the health plan) on behalf of the individual (45 C.F.R. § 164.522(a)(1)(vi)).

- (7) Directly or indirectly receive remuneration in exchange for PHI nor engage in any acts that would constitute a Sale of PHI, as defined in 45 C.F.R. § 164.502(a)(5)(ii), except with the prior written consent of IEHP and as permitted by and in compliance with 45 C.F.R. § 164.508(a)(4); however, this prohibition shall not affect payment by IEHP to Business Associate for services provided pursuant to the Underlying Agreement.
- (8) Use or disclose PHI that is Genetic Information for Underwriting Purposes, as those terms are defined in 45 C.F.R. §§ 160.103 and 164.502(a)(5)(i), respectively.
- D. Business Associate agrees that in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA and/or HITECH (including but not limited to prohibiting the disclosure of mental health, and/or substance abuse records), the more stringent laws and/or regulations shall control the disclosure of PHI.

### **3. OBLIGATIONS OF IEHP**

- A. Notification of Restrictions to Use or Disclosure of PHI. IEHP agrees that it will make its best efforts to promptly notify Business Associate in writing of any restrictions, limitations, or changes on the use, access and disclosure of PHI and/or ePHI agreed to by IEHP in accordance with 42 U.S.C. § 17935(a), that may affect Business Associate's ability to perform its obligations under the Underlying Agreement, or this Agreement.
- B. Proper Use of PHI. IEHP shall not request Business Associate to use, access, or disclose PHI and/or ePHI in any manner that would not be permissible under the Privacy Rule, Security Rule, and/or HITECH.
- C. Authorizations. IEHP will obtain any authorizations necessary for the use, access, or disclosure of PHI and/or ePHI, so that Business Associate can perform its obligations under this Agreement and/or the Underlying Agreement.
- D. Actions in Response to Business Associate Breach. IEHP shall complete the following in the event that IEHP has determined that Business Associate has a Breach:
  - (1) Determine appropriate method of notification to the patient/client(s) regarding a Breach as outlined in 45 C.F.R. § 164.404(d).
  - (2) Send notification to the patient/client(s) without unreasonable delay but in no case later than sixty (60) days of Discovery of the Breach with at least the minimal required elements as follows:
    - a) Brief description of what happened, including the date of the Breach and the date of Discovery;



- b) Description of the types of Unsecured PHI involved in the Breach (such as name, date of birth, home address, Social Security number, medical insurance, etc.);
- c) Steps patient/client(s) should take to protect themselves from potential harm resulting from the Breach;
- d) Brief description of what is being done to investigate the Breach, to mitigate harm to patient/client(s) and to protect against any further Breaches; and
- e) Contact procedures for patient/client(s) to ask questions or learn additional information, which must include a toll-free telephone number, an E-Mail address, website or postal address.

(3) Determine if notice is required to the Secretary.

(4) If required, submit Breach information to the Secretary within the required timeframe, in accordance with 45 C.F.R. § 164.408(b).

- E. Contract Violations by Business Associate. Pursuant to 45 C.F.R. § 164.504(e)(1)(ii), if IEHP knows of a pattern of activity or practice of the Business Associate that constitutes a material breach or violation of the Business Associate's obligations under this Agreement, IEHP must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, IEHP shall terminate the Agreement, if feasible.

#### **4. OBLIGATIONS OF BUSINESS ASSOCIATE**

- A. Minimum Necessary. Business Associate shall request, use, access or disclose only the minimum amount of PHI and/or ePHI as permitted or required by this Agreement and as necessary to accomplish the intended purpose of the request, use, access or disclosure in accordance with the Privacy Rule (45 C.F.R. § 164.502(b)(1)).
- B. Appropriate Safeguards. Business Associate shall use reasonable and appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Agreement. Business Associate shall implement administrative, physical and technical safeguards in accordance with the Security Rule under 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316:
  - (1) Business Associate shall issue and change procedures from time to time to improve electronic data and file security as needed to comply with the measures that may be required by the Privacy Rule or the Security Rule, as applicable, and at all times use an NIST-Approved Technology for all PHI and/or ePHI that is in motion, stored or to be destroyed.

- (2) Business Associate shall extend such policies and procedures, if applicable, for the protection of physical PHI to prevent, detect, contain and correct security violations, as well as to limit unauthorized physical access to the facility or facilities in which the PHI is housed.
- C. Mitigation. Business Associate shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use, access or disclosure of PHI and/or ePHI by Business Associate in violation of this Agreement.
- D. Access to Records. Business Associate shall make internal practices, books, and records including policies and procedures, relating to the use, access, disclosure, and privacy protection of PHI received from IEHP, or created or received by Business Associate on behalf of IEHP, available to the Secretary, for purposes of determining, investigating or auditing Business Associate's and/or IEHP's compliance with the Privacy and Security Rules and/or HITECH, subject to any applicable legal restrictions. Business Associate shall also cooperate with IEHP should IEHP elect to conduct its own such investigation and analysis.
- E. Carrying Out IEHP's Obligations. To the extent Business Associate is to carry out one or more of IEHP's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that applies to IEHP in the performance of such obligations.
- F. Subcontractors. In accordance with 45 C.F.R. §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall require Subcontractors that create, receive, maintain or transmit PHI and/or ePHI on behalf of Business Associate, to agree to the same restrictions, conditions and requirements that apply to Business Associate with respect to the PHI and/or ePHI, including the restrictions, conditions and requirements set forth in this Agreement.
- G. Contract Violations by Subcontractors. Pursuant to 45 C.F.R. § 164.504(e)(1)(iii), if Business Associate knows of a pattern of activity or practice of the Subcontractor that constitutes a material breach or violation of the Subcontractor's obligations under the business associate contract between Business Associate and Subcontractor, Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, Business Associate shall terminate the business associate contract with the Subcontractor if feasible.
- H. Workforce Training. Business Associate warrants that all employees who use, access or disclose PHI and/or ePHI shall be properly trained to comply with Privacy Rule, Security Rule, HITECH, or other such applicable law.
- I. Patient Confidentiality Laws and Regulations. Business Associate agrees to obtain and maintain knowledge of the applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.

J. Reporting of Improper Access, Use or Disclosure Breach. Business Associate shall report to IEHP any unauthorized use, access or disclosure of Unsecured PHI and/or ePHI or any other security incident with respect to PHI no later than fifteen (15) days after Discovery of the potential Breach (“Notice Date”). Business Associate shall notify IEHP through the IEHP Compliance Department via telephone to the Compliance Hotline (866) 355-9038, via email to the Compliance Mailbox [compliance@iehp.org](mailto:compliance@iehp.org), or via facsimile to the Compliance Fax (909) 477-8536. Upon Discovery of the potential Breach, Business Associate shall complete the following actions:

- (1) Provide IEHP’s Compliance Department with the information required by 45 C.F.R. §§164.410 and 164.404, which shall include, but not be limited to:
  - a) The identification of each individual (IEHP Members) whose Unsecured PHI has been, or is reasonably believed by Business Associate, to have been accessed, acquired, used or disclosed;
  - b) Date(s) of Breach: MM/DD/YYYY;
  - c) Date(s) of Discovery of Breach: MM/DD/YYYY;
  - d) Approximate number of individuals (IEHP Members) affected by the Breach;
  - e) Type of Breach, i.e., theft, loss, improper disposal, unauthorized access, hacking/IT incident (for additional selections, see U.S. Department of Health & Human Services, Health Information Privacy);
  - f) Location of breached information, i.e., laptop, desktop computer, network server, E-Mail, other portable electronic device (see U.S. Department of Health & Human Services, Health Information Privacy);
  - g) Type of PHI involved in the Breach, i.e., demographic information, financial information, clinical information (see U.S. Department of Health & Human Services, Health Information Privacy);
  - h) Safeguards in place prior to Breach, i.e., firewalls, packet filtering (router-based), encrypted wireless (see U.S. Department of Health & Human Services, Health Information Privacy);
  - i) Actions taken in response to Breach, i.e., mitigation, protection against any further Breaches, policies and procedures (see U.S. Department of Health & Human Services, Health Information Privacy); and
  - j) Any steps individuals should take to protect themselves from potential harm resulting from the Breach.

- (2) Conduct and document a risk assessment by investigating, without reasonable delay and in no case later than twenty (20) calendar days of Discovery, the potential Breach to determine the following:
  - a) Whether there has been an impermissible use, acquisition, access or disclosure of PHI and/or ePHI under the Privacy Rule;
  - b) Whether an impermissible use or disclosure compromises the security or privacy of the PHI and/or ePHI, including whether it can be demonstrated that there is a low probability that PHI and/or ePHI has been compromised based on a risk assessment of at least four (4) factors specified in Section 1.B(1) defining Breach; and
  - c) Whether the incident falls under one of the Breach exceptions.
- (3) Provide the completed risk assessment and investigation documentation to IEHP's Compliance Department within twenty-five (25) calendar days of Discovery of the potential Breach, and collaborate with IEHP on making a decision on whether a Breach has occurred.
  - a) If a Breach has not occurred, notification to patient/client(s) is not required;
  - b) If a Breach has occurred, notification to the patient/client(s) is required and Business Associate must provide IEHP with affected patient/client(s) names and contact information so that IEHP can provide notification.
- (4) Make available to governing State and Federal agencies in a time and manner designated by such agencies, any policies, procedures, internal practices and records relating to a potential Breach for the purposes of audit; cooperate with IEHP should IEHP elect to conduct its own such investigation and analysis.
- (5) Should the Breach of Unsecured PHI be caused solely by Business Associate's failure to comply with one or more of its obligations under this BAA, Privacy Rule, Security Rule and/or HITECH Provisions, Business Associate shall pay for any and all costs associated with providing all legally required notifications to individuals, media outlets and the Secretary.
- (6) Should the Breach of Unsecured PHI involve more than 500 residents of a single State or jurisdiction, Business Associate shall provide to IEHP, no later than the Notice Date, the information necessary for IEHP to prepare the notice to media outlets as set forth in 45 C.F.R. § 164.406.
- (7) Should the Breach of Unsecured PHI involve 500 or more individuals, Business Associate shall provide to IEHP, no later than the Notice Date, the information necessary for IEHP to prepare the notice to the Secretary as set forth in 45 C.F.R. § 164.408.

- (8) Should the Breach of Unsecured PHI involve less than 500 individuals, Business Associate shall maintain a log of such Breaches and provide such log to IEHP, for submission to the Secretary, on an annual basis and not later than forty-five (45) days after the end of each calendar year.

**5. ACCESS TO PHI, AMENDMENT AND DISCLOSURE ACCOUNTING**

Business Associate agrees to:

- A. Provide access, at the request of IEHP, within five (5) days, to PHI, including ePHI if maintained electronically, in a Designated Record Set, to IEHP, or to an individual or individual's designee as directed by IEHP, as necessary for IEHP to satisfy its obligations under 45 C.F.R. § 164.524.
- B. Make any amendment(s) to PHI in a Designated Record Set that IEHP directs or agrees to, at the request of IEHP or an individual, pursuant to 45 C.F.R. § 164.526, within thirty (30) days of the request of IEHP.
- C. Assist IEHP in meeting its disclosure accounting under HIPAA:
- (1) Business Associate agrees to document such disclosures of PHI and information related to such disclosures, as would be required for IEHP to respond to a request by an individual for an accounting of disclosures of PHI.
- (2) Business Associate agrees to provide to IEHP, within thirty (30) days, information collected in accordance with this Section to permit IEHP to make an accounting of disclosures of PHI by Business Associate in accordance with 45 C.F.R. § 164.528 and HITECH.
- (3) Business Associate shall have available for IEHP the information required by this Section for the ten (10) years preceding IEHP's request for information.

**6. TERM AND TERMINATION**

- A. Term. This Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement.
- B. Termination for Cause. IEHP may terminate the Underlying Agreement, effective immediately, if IEHP, in its sole discretion, determines that Business Associate has breached a material provision of this Agreement relating to the privacy and/or security of the PHI. Alternatively, IEHP may choose to provide Business Associate with notice of the existence of an alleged material breach and afford Business Associate with an opportunity to cure the alleged material breach. In the event Business Associate fails to cure the breach to the satisfaction of IEHP in a timely manner, IEHP reserves the right to immediately terminate the Underlying Agreement.

- (1) Effect of Termination. Upon termination of the Underlying Agreement, for any reason, Business Associate shall return or destroy all PHI and/or ePHI received from IEHP, or created or received by Business Associate on behalf of IEHP, no later than sixty (60) days after the date of termination. Business Associate shall certify such destruction, in writing, to IEHP. This provision shall apply to all PHI and/or ePHI which is in possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI and/or ePHI.
- (2) Destruction not Feasible. In the event that Business Associate determines that returning or destroying the PHI and/or ePHI is not feasible, Business Associate shall provide written notification to IEHP of the conditions which make such return or destruction not feasible. Upon determination by Business Associate that return or destruction of PHI and/or ePHI is not feasible, Business Associate shall extend the protections, limitations, and restrictions of this Agreement to such PHI and/or ePHI retained by Business Associate, its subcontractors, employees or agents, and to limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as such PHI and/or ePHI is maintained.

## **7. HOLD HARMLESS/INDEMNIFICATION**

With respect to the subject matter in this Agreement, the following shall be applicable:

The Business Associate agrees to indemnify, defend and hold harmless IEHP and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, , penalties, injuries, costs and expenses (including costs for reasonable attorneys fees) that are caused by or result from the acts or omissions of Business Associate, its officers, agents, employees and subcontractors, with respect to the use, access, maintenance or disclosure of IEHP's PHI or ePHI, including without limitation, any Breach of PHI or ePHI of any expenses incurred by IEHP in providing required Breach notifications.

With respect to any action or claim subject to indemnification herein by Business Associate, Business Associate shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of IEHP, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of IEHP; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Business Associate's indemnification to IEHP as set forth herein. Business Associate's obligation to defend, indemnify and hold harmless IEHP shall be subject to IEHP having given Business Associate written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Business Associate's expense, for the defense or settlement thereof. Business Associate's obligation hereunder shall be satisfied when Business Associate has provided to IEHP the appropriate form of dismissal relieving IEHP from any liability for the action or claim involved.

The specified insurance limits required in the Underlying Agreement shall in no way limit or circumscribe Business Associate's obligations to indemnify and hold harmless IEHP herein from third party claims arising from the issues of this Agreement.

In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement, this indemnification shall only apply to the subject issues included within this Agreement.

## **8. GENERAL PROVISIONS**

- A. Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for IEHP to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.
- B. Survival. Notwithstanding Section 6.A of this Agreement, the respective rights and obligations of this Agreement shall survive the termination or expiration of this Agreement.
- C. Regulatory References. A reference in this Agreement to a section in the Privacy Rule, Security Rule, and/or HITECH means the section(s) as in effect or as amended.
- D. Interpretation. This Attachment shall be construed to be a part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of HIPAA and HITECH. Any ambiguity in this Agreement and the Underlying Agreement shall be resolved to permit IEHP to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.

- E. Remedies. Business Associate agrees that IEHP shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which IEHP may have at law or in equity in the event of an unauthorized use, access, or disclosure of PHI by Business Associate or any agent or subcontractor of Business Associate that received PHI from Business Associate.
- F. Ownership. The PHI shall be and remain the property of IEHP. Business Associate agrees that it acquires no title or rights to the PHI.
- G. Headings. Paragraph headings contained in this Agreement are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Agreement.



**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**July 14, 2020**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

**Increase in Appropriations for Heating, Ventilation, and Air Conditioning Services**

**RECOMMENDATION(S)**

Approve an increase in appropriations for heating, ventilation, and air conditioning services by \$300,000 for a total amount not to exceed \$764,740 through January 24, 2022.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**GOALS & OBJECTIVES**

**HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.**

**HACSB residents live in safe and desirable homes and communities where they can develop and prosper.**

**HACSB has secured the resources needed for accomplishing its mission.**

**FINANCIAL IMPACT**

This item is not expected to exceed \$764,740 through January 24, 2022 and is funded by the Housing Authority of the County of San Bernardino's (HACSB) property operations budget. The amount of \$247,000 for Fiscal Year Ending 2020 is included in the budget and the remaining amount will be included in subsequent fiscal year budgets.

**BACKGROUND INFORMATION**

HACSB currently owns and manages approximately 1,300 multi-family housing units and several administrative offices which require routine maintenance related repairs in various categories. One such repair category is heating, ventilation and air conditioning (HVAC). HACSB contracts with various maintenance trade contractors to provide HVAC maintenance repairs for rental units and administrative offices on an "as-needed" basis. Approval of this item will allow for continued HVAC maintenance services.

**PROCUREMENT**

The HACSB Procurement and Contracts Department previously released a Request for Proposal (RFP) PC919 for HVAC Services as-needed on October 3, 2016, which resulted in three proposals. Proposals were evaluated per the requirements of the RFP in which CSR Air Conditioning & Heating, Inc. and Neighborly Heating & Cooling, Inc. were the most qualified, appropriately priced, and most responsive vendors selected to provide these services to the agency.

On January 24, 2017, the Board of Governors (Item No.56) approved contracts with CSR Air Conditioning & Heating, Inc. and Neighborly Heating & Cooling, Inc. for on-call hourly HVAC maintenance services with an aggregate amount of \$464,740, each for a term of five years, beginning January 25, 2017 through January 24, 2022.

Increase in Appropriations for Heating, Ventilation, and Air Conditioning Services  
July 24, 2020

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 25, 2020.

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**July 14, 2020**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Increase Appropriations and Contract Addendums for On-Call Architect Services**

## **RECOMMENDATION(S)**

1. Approve contract addendums to Contract No. PC938, with Sillman Wright Architects, Onyx Architects, Inc., Pyatok Architects, and BASIS Architecture & Consulting, for on-call architect services, exercising the option to extend one additional two-year term from August 1, 2020 through July 31, 2022.
2. Approve an increase in appropriations for on-call architect services by \$500,000 for an overall amount not to exceed \$1,085,000 through July 31, 2022.
3. Authorize and direct the Executive Director to execute and deliver the contract addendums to Sillman Wright Architects, Onyx Architects, Inc., Pyatok Architects, and BASIS Architecture & Consulting and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**HACSB clients, programs, and properties are embraced by all communities.**

**HACSB clients live in safe and desirable homes and communities where they can develop and prosper.**

## **FINANCIAL IMPACT**

This item is not expected to exceed a multi-year amount of \$1,085,000 and is funded through the Housing Authority of the County of San Bernardino's (HACSB) operations budget. The amount for Fiscal Year Ending 2020 is included in the budget and required amounts will be included in subsequent fiscal year budgets.

## **BACKGROUND INFORMATION**

In the next few years HACSB will undertake various capital improvement projects for future and existing housing developments. This work requires professional services from architectural firms. The services may include: review of existing conditions; schematic design; design development; construction documents; construction procurement services; construction administration; and post completion/warranty. Approval of this item would allow HACSB to continue to access these on-call architect services for these future capital improvement projects.

## **PROCUREMENT**

The Procurement and Contracts Department previously released a Request for Qualifications (RFQ) PC938 on April 12, 2017 to create a roster of On-Call Architecture firms. Outreach efforts included, email notifications to 52 vendors and posting on the HACSB website. Nine proposals were received in response to this RFQ. An evaluation of qualifications was conducted in accordance to the proposal's specifications and it was determined that the four top ranked firms

Increase Appropriations and Contract Addendums for On-Call Architect Services  
July 14, 2020

Onyx Architects, Inc., Pyatok Architects, Sillman Wright Architects, and BASIS Architecture & Consulting were selected for placement on the roster for on-call architects.

On July 12, 2017, HACSB's Housing Commission (Item No. 8) approved authorization to award agreements and create a roster for on-call architectural services with Onyx Architects, Inc., Pyatok Architects, Sillman Wright Architects, and BASIS Architecture & Consulting for a three-year base term with the option to extend one additional two-year term through July 31, 2022.

On July 12, 2017, HACSB's Housing Commission (Item No. 9) approved an addendum to PC938 for BASIS Architecture & Consulting for work related to the Queen's Motel project in an amount of \$108,615.

On March 13, 2018, HACSB's Housing Commission (Item No. 9) approved an appropriation for Architectural Services for the existing roster of on-call architectural services contracts with Sillman Wright Architects, Onyx Architects, Inc., Pyatok Architects, and BASIS Architecture & Consulting for an overall amount not to exceed of \$585,000 through July 31, 2020.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.

Addendum (If any)

(Additional Services and other modifications)

**Addendum #1-**

**Item 1:**

Exercise the optional two-year extension through July 31, 2022.

No other changes included in this addendum.

This addendum consisting of one (1) page is executed by the persons signing below who warrant they have the authority to execute the addendum under the original contract.

This is an Addendum to a Standard Form of Agreement between Owner and Design Professional signed and dated the 15th. day of July in the year (yyyy) of 2020 between the Owner The Housing Authority of the County of San Bernardino and Design Professional Pyatok Architects on Project On-Call Architect Contract. The parties to that Agreement agree to modify the Agreement by the above delineated Additional Services and modifications.

This Addendum is dated this 15th. day of July in the year (yyyy) of 2020.

**Owner**

Housing Authority of the County of San Bernardino

(Housing Authority)

(Signature)

Maria Razo

(Print Name)

Executive Director

(Print Title)

**Design Professional**

Pyatok Architects

(Firm)

(Signature)

Michael Pyatok

(Print Name)

Lead Principal

(Print Title)

Addendum (If any)  
(Additional Services and other modifications)

Addendum #2 -

Item 1:  
Exercise the optional two-year extension through July 31, 2022.

No other changes included in this addendum.

This addendum consisting of one (1) page is executed by the persons signing below who warrant they have the authority to execute the addendum under the original contract.

This is an Addendum to a Standard Form of Agreement between Owner and Design Professional signed and dated the 15th. day of July in the year (yyyy) of 2020 between the Owner The Housing Authority of the County of San Bernardino and Design Professional Onyx Architects, Inc. on Project On-Call Architects Contract. The parties to that Agreement agree to modify the Agreement by the above delineated Additional Services and modifications.

This Addendum is dated this 15th. day of July in the year (yyyy) of 2020.

Owner

Housing Authority of the County of San Bernardino

(Housing Authority)

(Signature)

Maria Razo

(Print Name)

Executive Director

(Print Title)

Design Professional

Onyx Architects, Inc.

(Firm)

(Signature)

Dale W. Brown

(Print Name)

President

(Print Title)

Addendum (If any)

(Additional Services and other modifications)

### Addendum #3 -

#### Item 1:

Exercise the optional two-year extension through July 31, 2022.

No other changes included in this addendum.

This addendum consisting of one (1) page is executed by the persons signing below who warrant they have the authority to execute the addendum under the original contract.

This is an Addendum to a Standard Form of Agreement between Owner and Design Professional signed and dated the 15th. day of July in the year (yyyy) of 2020 between the Owner The Housing Authority of the County of San Bernardino and Design Professional BASIS Architecture & Consulting on Project On-Call Architect Contract. The parties to that Agreement agree to modify the Agreement by the above delineated Additional Services and modifications.

This Addendum is dated this 15th. day of July in the year (yyyy) of 2020.

#### Owner

Housing Authority of the County of San Bernardino

(Housing Authority)

(Signature)

Maria Razo

(Print Name)

Executive Director

(Print Title)

#### Design Professional

BASIS Architecture & Consulting

(Firm)

(Signature)

Charles Pick

(Print Name)

Architect

(Print Title)

Addendum (If any)

(Additional Services and other modifications)

**Addendum #7-**

**Item 1:**

Exercise the optional two-year extension through July 31, 2022.

No other changes included in this addendum.

This addendum consisting of one (1) page is executed by the persons signing below who warrant they have the authority to execute the addendum under the original contract.

This is an Addendum to a Standard Form of Agreement between Owner and Design Professional signed and dated the 15th. day of July in the year (yyyy) of 2020 between the Owner The Housing Authority of the County of San Bernardino and Design Professional Sillman Wright Architects on Project On-Call Architect Contract. The parties to that Agreement agree to modify the Agreement by the above delineated Additional Services and modifications.

This Addendum is dated this 15th. day of July in the year (yyyy) of 2020.

**Owner**

Housing Authority of the County of San Bernardino

(Housing Authority)

(Signature)

Maria Razo

(Print Name)

Executive Director

(Print Title)

**Design Professional**

Sillman Wright Architects

(Firm)

(Signature)

Brett Tullis

(Print Name)

Principal

(Print Title)



# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**July 14, 2020**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Increase Appropriations and Contract Amendments for Environmental Abatement Services**

## **RECOMMENDATION(S)**

1. Approve Amendment No. 1 to Contract No. PC947, with Vizion's West, Inc. and Unlimited Environmental, Inc. for environmental abatement services, exercising the option to extend one additional two-year term from July 24, 2020 through July 23, 2022.
2. Approve an increase in appropriations for environmental abatement services by \$250,000 for an overall amount not to exceed \$450,000 through July 23, 2022.
3. Authorize and direct the Executive Director to execute and deliver the contract amendments to Vizion's West, Inc. and Unlimited Environmental, Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.  
(Presenter: Maria Razo, Executive Director, 332-6305)

## **GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**HACSB clients, programs, and properties are embraced by all communities.**

**HACSB clients live in safe and desirable homes and communities where they can develop and prosper.**

## **FINANCIAL IMPACT**

This item is not expected to exceed a multi-year amount of \$450,000 and is funded through the Housing Authority of the County of San Bernardino's (HACSB) operations budget. The amount for Fiscal Year Ending 2020 is included in the budget and will be included in subsequent fiscal year budgets.

## **BACKGROUND INFORMATION**

HACSB currently owns and manages approximately 1,300 units of multi-family housing throughout San Bernardino County. Many of these units were built before 1978 and therefore require assessment and testing for asbestos, lead-based paint, and mold containing materials prior to any interior or exterior repair/renovations. Once the environmental hazardous materials have been identified and tested, they must be remediated and properly disposed of (including waste packaging, labeling, and hauling), or appropriately encapsulated. This work requires the services of a Certified Environmental Abatement Contractor. The abatement contractor shall provide all labor, equipment, supplies, and materials to abate, as required, environmental hazards at designated HACSB properties. All work shall be accomplished in compliance with the California Uniform Statewide Building Code, and all other applicable Federal, State and Local laws, ordinances, rules, regulations and codes. Approval of this item will allow HACSB to move forward with necessary environmental abatement services.

**PROCUREMENT**

The Procurement and Contracts Department previously released a Request for Proposal (RFP) PC947 on May 10, 2017. Outreach efforts included: advertisement in local newspapers, email invitations to four vendors and posting on the HACSB website. Two proposals were received in response to this RFP in which both Vizion's West, Inc. and Unlimited Environmental, Inc. were both qualified, appropriately priced, and responsive vendors.

On July 12, 2017, HACSB's Housing Commission (Item No. 12) awarded contracts to both Vizion's West, Inc. and Unlimited Environmental, Inc. for a three-year term with the option to extend one additional two-year term through July 23, 2022 in an amount not to exceed \$200,000 for the initial three year base term through July 23, 2020.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.



**AMENDMENT #1 TO CONTRACT FOR ENVIRONMENTAL ABATEMENT  
(PC947)**

**BETWEEN**

**THE HOUSING AUTHORITY OF THE  
COUNTY OF SAN BERNARDINO**

**And**

**VIZION'S WEST, INC.**

This Amendment No. 1, dated July 24, 2020 ("First Amendment"), to Contract for Environmental Abatement Services (PC947), is entered into by and between the Housing Authority of the County of San Bernardino, a California public body ("Authority") and Vizion's West, Inc. a California corporation ("Contractor").

**RECITALS**

**WHEREAS**, the Authority and Contractor entered into that certain Consulting, Services, and Non-Routine Maintenance Related Services Agreement (Non-Construction), dated July 24, 2017, relating to Environmental Abatement Services ("Agreement").

**OPERATIVE PROVISIONS**

**NOW, THEREFORE**, the foregoing Recitals being true and correct, and in consideration of the mutual covenants and obligations contained in this first amendment by the Parties and other consideration, the sufficiency of which is hereby expressly acknowledged, the Parties hereto agree as follows:

**Section 1.** Article 1, Statement of Work, of the Agreement is amended to read as follows:

**"Article 1. Statement of Work.** Contractor shall furnish all labor, materials, tools, equipment, and supervision to perform all work required in the Statement of Work set forth on Exhibit "A-1", attached hereto and incorporated herein by this reference and as may be amended by the Parties from time to time (the "Work"). In connection with its performance of the Work, Contractor shall comply with all of the Contract Documents (as hereinafter defined)."

**Section 2.** References to Exhibit "A" shall mean Exhibits "A-1" and "A-2", attached hereto and incorporated herein by this reference.

**Section 3.** Pursuant to Article 3 of the Agreement, the Agreement is hereby commencing on July 24, 2020 and expiring on July 23, 2022.

**Section 4.** Article 4 of the Agreement is amended to read as follows:

**“Article 4. Price.** Authority agrees to pay Contractor for the provision of the Work based on the fee schedule set forth on Exhibit “A-2”, and as may be amended by the Parties from time to time (the “Agreement Price”).”

**Section 5.** The effective date of this amendment is July 24, 2020.

EXCEPT AS AMENDED HEREBY ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT REMAIN IN FULL FORCE AND EFFECT.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Housing Authority of the County of San Bernardino and Vizion's West, Inc.

---

**VIZION'S WEST, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO**

By: \_\_\_\_\_

Name: Maria Razo

Title: Executive Director

Date: \_\_\_\_\_

## **Exhibit A-1**

### **Original Statement of Work**

On an as-needed basis, Contractors shall perform all Work in compliance with all applicable regulations, codes, ordinances, and standards of governing authorities (including Authority policies) having jurisdiction and the requirements within site-specified site plans. These requirements include providing Authority with: (a) Submittals prior to the commencement of a project, such as, detailed job-specific plan, emergency preparedness plan, Material Safety Data Sheets (MSDS), and project closeout information; (b) an emergency planning and procedures; (c) Fire protection plan; (d) IIPP (Illness & Injury Prevention Program); (e) Respiratory Protection Program; and (f) Permits and notifications for the work.

#### **COMPLIANCE**

The Contractor shall be in compliance with the following:

- (a) The Contractor shall maintain at the job site copies of applicable standards and regulations, and the Contractor's respirator program and training manual.
- (b) Prior to beginning work on any project, defined as an "Environmental Abatement Project" the Contractor shall submit verification to Authority that he has properly notified the appropriate regulatory agencies depending on the materials to be abated. Notifications must be on standard forms sent prior to beginning work. Prior notification may be waived if emergency status is obtained.

#### **DOCUMENTATION**

The Contractor shall submit the following to Authority prior to any set-up, preparation work, or abatement:

1. A copy of their California State Contractor's License and appropriate Environmental Abatement Licenses.
2. A copy of the Contractor's written respirator program, to include provisions for respirator selection, employee training, medical surveillance, and fit-testing in accordance with 29 CFR 1926.58 including appendices, 29 CFR 1910.134, 29CFR 1926.1101 and 30 CFR Part 11.
3. The designation of a "competent person" to supervise the job as required in 29 CFR 1926.58. The Supervisor shall have completed a comprehensive course of training such as provided by an EPA Asbestos Training Center, or equivalent. The Supervisor shall be required to remain at the job site during all work.
4. Name and location of the disposal site where the environmental waste will be disposed of in accordance with disposal requirements 40CFR 61.150. (Manifests for hazardous waste transported to this site shall be provided to Authority upon completion of the abatement project and shall be submitted at the time of invoice to include manifests for work invoiced).
5. Documentation that all employees required to work in environmental abatement areas have received training and are knowledgeable in: the health effects of exposure to the materials being removed; the relationship between exposure, cigarette smoking, and lung cancer; engineering controls and work practices to reduce exposure; proper use of personal

protective equipment; and proper decontamination procedures. The Contractor shall submit copies of training certificates and worker's licenses for each worker assigned to the project.

6. Copies of medical clearance and approval submitted by a physician for each employee to wear a respirator and work as an asbestos abatement worker according to 29 CFR 1926.58.

## **PROCEDURES**

1. Within twenty-four (24) hours of receipt of a telephonic or written request from Authority, the Contractor shall visit the designated work site, and examine the site of the proposed work to acquire a full understanding of the nature and scope of the abatement work to be accomplished.

2. Within twenty-four (24) hours of the work site visit, the Contractor shall deliver to Authority a written estimate of the cost to complete the abatement work. This estimate shall be on a form approved by the Contract Officer and shall include:

- a. Types and quantities of labor multiplied by the bid ranges contained in the PRICING SCHEDULE (contained in the RFP.)
- b. A listing of materials required with the costs of such items (to be billed at Contractor's actual paid invoice cost.)
- c. A target date for starting work.
- d. Estimated completion date.

The starting and completion dates shall be agreed upon between Authority and the Contractor.

3. Upon approval of the estimate by Authority, the Contractor will proceed with the work. The approval shall incorporate the Contractor's estimate as a "not to exceed" cost and the agreed upon starting and completion dates. No work shall be undertaken by the Contractor until approval has been received.

4. Contractor shall perform no work that would result in exceeding the dollar limitation of the estimate without first having obtained written approval of Authority.

5. Failure to meet the response time requirements established above without Authority concurrence may result in the Contractor being considered in default of the Terms and Conditions of this contract.

6. The response times indicated above are applicable to non-emergency requirements. The Contractor shall be expected to respond to emergency requirements within a two (2) hour time frame as dictated by the implications of safety and health that apply to the circumstances of the specific situation. The Agency will follow the sequence of notifying the Contractor set forth in Section II. The Contractor will be given a maximum of two hours to determine if he can respond to the emergency. In the event the Contractor cannot respond to the requirements, Authority reserves the right to contract with other Contractors to fulfill the requirements of the emergency.

## **ESTIMATES FOR WORK**

1. Upon request by Authority, the Contractor shall prepare and submit a written estimate of the labor and materials that will be required to perform the environmental abatement requirements ordered under the contract. This work may then be performed only with Authority's authorization. Upon authorization, actual work shall not exceed the Contractor's estimate without Authority's prior written approval.
2. Authority reserves the right to make or obtain other estimates prior to authorizing the Contractor to proceed in order to comply with the requirements of federal regulations to determine price reasonableness. If the estimate is considered not to be reasonable, the Contractor will be asked to review his estimate and resubmit. If the revised estimate is still considered to be unreasonable, Authority reserves the right to obtain the work from another source.



**Exhibit A-2**  
**Work Authorization**

**Schedule Dates:**

Start Date: July 24, 2020

Completion Date: July 23, 2022

Statement of Work ("Exhibit A-1")

Work Authorization ("Exhibit A-2")

General Conditions for Non-construction work ("Exhibit B")

**Per Fee Schedules Below:**

Item	Description	Unit	Unit Price
Provide pricing for Environmental Abatement services per the specifications listed in RFP PC 947:			
1	<b>LABOR FOR ABATEMENT SERVICES</b> (Regular Hours 6 am-6 pm)		
	ACM Superintendent/Project Mgr.	Hour	115.00
	ACM Foreman/Supervisor	Hour	115.00
	ACM Removal Worker	Hour	99.50
	LBP Foreman/Supervisor	Hour	115.00
	LBP Removal Worker	Hour	99.50
	Mold Foreman/Supervisor	Hour	115.00
	Mold Removal Worker	Hour	99.50
	Clerical/Administrative/Accounting	Hour	22.50
2	<b>LABOR FOR ABATEMENT SERVICES</b> (After Hours 6 pm- 6 am)		
	ACM Superintendent/Project Mgr.	Hour	115.00
	ACM Foreman/Supervisor	Hour	115.00
	ACM Removal Worker	Hour	99.50
	LBP Foreman/Supervisor	Hour	115.00
	LBP Removal Worker	Hour	99.50
	Mold Foreman/Supervisor	Hour	115.00
	Mold Removal Worker	Hour	99.50
	Clerical/Administrative/Accounting	Hour	22.50
3	<b>HAZARDOUS TRANSPORTATION &amp; DISPOSAL COSTS</b>		
	Hazardous Disposal ACM(per bag)		4.95

Item	Description	Unit	Unit Price
	Non-Hazardous Disposal ACM(per bag)		4.95
	Hazardous Disposal LBP(per bag)	5 gal.	525.00
	Non-Hazardous Disposal LBP(per bag)		4.95
	Non-Hazardous Mold Impacted Construction Materials Disposal (per bag)		3.50
	ACM Minimum Transport (each)		450.00
	LBP Minimum Transport (each)		450.00
	Mold Minimum Transport (each)		450.00
	General Debris/Construction Debris Transport (bin)		1150.00
	Friable ACM drum (per drum)		Inc. in bag price
4	<b>ADDITIONAL CHARGES/SERVICES</b>		—



**AMENDMENT #1 TO CONTRACT FOR ENVIRONMENTAL ABATEMENT  
(PC947)**

**BETWEEN**

**THE HOUSING AUTHORITY OF THE  
COUNTY OF SAN BERNARDINO**

**And**

**UNLIMITED ENVIRONMENTAL, INC.**

This Amendment No. 1, dated July 24, 2020 ("First Amendment"), to Contract for Environmental Abatement Services (PC947), is entered into by and between the Housing Authority of the County of San Bernardino, a California public body ("Authority") and Unlimited Environmental, Inc. a California corporation ("Contractor").

**RECITALS**

**WHEREAS**, the Authority and Contractor entered into that certain Consulting, Services, and Non-Routine Maintenance Related Services Agreement (Non-Construction), dated July 24, 2017, relating to Environmental Abatement Services ("Agreement").

**OPERATIVE PROVISIONS**

**NOW, THEREFORE**, the foregoing Recitals being true and correct, and in consideration of the mutual covenants and obligations contained in this first amendment by the Parties and other consideration, the sufficiency of which is hereby expressly acknowledged, the Parties hereto agree as follows:

**Section 1.** Article 1, Statement of Work, of the Agreement is amended to read as follows:

**"Article 1. Statement of Work.** Contractor shall furnish all labor, materials, tools, equipment, and supervision to perform all work required in the Statement of Work set forth on Exhibit "A-1", attached hereto and incorporated herein by this reference and as may be amended by the Parties from time to time (the "Work"). In connection with its performance of the Work, Contractor shall comply with all of the Contract Documents (as hereinafter defined)."

**Section 2.** References to Exhibit "A" shall mean Exhibits "A-1" and "A-2", attached hereto and incorporated herein by this reference.

**Section 3.** Pursuant to Article 3 of the Agreement, the Agreement is hereby commencing on July 24, 2020 and expiring on July 23, 2022.

**Section 4.** Article 4 of the Agreement is amended to read as follows:

**“Article 4. Price.** Authority agrees to pay Contractor for the provision of the Work based on the fee schedule set forth on Exhibit “A-2”, and as may be amended by the Parties from time to time (the “Agreement Price”).”

**Section 5.** The effective date of this amendment is July 24, 2020.

EXCEPT AS AMENDED HEREBY ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT REMAIN IN FULL FORCE AND EFFECT.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Housing Authority of the County of San Bernardino and Unlimited Environmental, Inc.

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**UNLIMITED ENVIRONMENTAL, INC.**

**HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO**

By:\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Name: Maria Razo

Title:\_\_\_\_\_

Title: Executive Director

Date:\_\_\_\_\_

Date:\_\_\_\_\_

## **Exhibit A-1**

### **Original Statement of Work**

On an as-needed basis, Contractors shall perform all Work in compliance with all applicable regulations, codes, ordinances, and standards of governing authorities (including Authority policies) having jurisdiction and the requirements within site-specified site plans. These requirements include providing Authority with: (a) Submittals prior to the commencement of a project, such as, detailed job-specific plan, emergency preparedness plan, Material Safety Data Sheets (MSDS), and project closeout information; (b) an emergency planning and procedures; (c) Fire protection plan; (d) IIPP (Illness & Injury Prevention Program); (e) Respiratory Protection Program; and (f) Permits and notifications for the work.

### **COMPLIANCE**

The Contractor shall be in compliance with the following:

- (a) The Contractor shall maintain at the job site copies of applicable standards and regulations, and the Contractor's respirator program and training manual.
- (b) Prior to beginning work on any project, defined as an "Environmental Abatement Project" the Contractor shall submit verification to Authority that he has properly notified the appropriate regulatory agencies depending on the materials to be abated. Notifications must be on standard forms sent prior to beginning work. Prior notification may be waived if emergency status is obtained.

### **DOCUMENTATION**

The Contractor shall submit the following to Authority prior to any set-up, preparation work, or abatement:

1. A copy of their California State Contractor's License and appropriate Environmental Abatement Licenses.
2. A copy of the Contractor's written respirator program, to include provisions for respirator selection, employee training, medical surveillance, and fit-testing in accordance with 29 CFR 1926.58 including appendices, 29 CFR 1910.134, 29CFR 1926.1101 and 30 CFR Part 11.
3. The designation of a "competent person" to supervise the job as required in 29 CFR 1926.58. The Supervisor shall have completed a comprehensive course of training such as provided by an EPA Asbestos Training Center, or equivalent. The Supervisor shall be required to remain at the job site during all work.
4. Name and location of the disposal site where the environmental waste will be disposed of in accordance with disposal requirements 40CFR 61.150. (Manifests for hazardous waste transported to this site shall be provided to Authority upon completion of the abatement project and shall be submitted at the time of invoice to include manifests for work invoiced).
5. Documentation that all employees required to work in environmental abatement areas have received training and are knowledgeable in: the health effects of exposure to the materials being removed; the relationship between exposure, cigarette smoking, and lung cancer; engineering controls and work practices to reduce exposure; proper use of personal

protective equipment; and proper decontamination procedures. The Contractor shall submit copies of training certificates and worker's licenses for each worker assigned to the project.

6. Copies of medical clearance and approval submitted by a physician for each employee to wear a respirator and work as an asbestos abatement worker according to 29 CFR 1926.58.

## **PROCEDURES**

1. Within twenty-four (24) hours of receipt of a telephonic or written request from Authority, the Contractor shall visit the designated work site, and examine the site of the proposed work to acquire a full understanding of the nature and scope of the abatement work to be accomplished.

2. Within twenty-four (24) hours of the work site visit, the Contractor shall deliver to Authority a written estimate of the cost to complete the abatement work. This estimate shall be on a form approved by the Contract Officer and shall include:

- a. Types and quantities of labor multiplied by the bid ranges contained in the PRICING SCHEDULE (contained in the RFP.)
- b. A listing of materials required with the costs of such items (to be billed at Contractor's actual paid invoice cost.)
- c. A target date for starting work.
- d. Estimated completion date.

The starting and completion dates shall be agreed upon between Authority and the Contractor.

3. Upon approval of the estimate by Authority, the Contractor will proceed with the work. The approval shall incorporate the Contractor's estimate as a "not to exceed" cost and the agreed upon starting and completion dates. No work shall be undertaken by the Contractor until approval has been received.

4. Contractor shall perform no work that would result in exceeding the dollar limitation of the estimate without first having obtained written approval of Authority.

5. Failure to meet the response time requirements established above without Authority concurrence may result in the Contractor being considered in default of the Terms and Conditions of this contract.

6. The response times indicated above are applicable to non-emergency requirements. The Contractor shall be expected to respond to emergency requirements within a two (2) hour time frame as dictated by the implications of safety and health that apply to the circumstances of the specific situation. The Authority will follow the sequence of notifying the Contractor set forth in Section II. The Contractor will be given a maximum of two hours to determine if he can respond to the emergency. In the event the Contractor cannot respond to the requirements, Authority reserves the right to contract with other Contractors to fulfill the requirements of the emergency.

## **ESTIMATES FOR WORK**

1. Upon request by Authority, the Contractor shall prepare and submit a written estimate of the labor and materials that will be required to perform the environmental abatement requirements ordered under the contract. This work may then be performed only with Authority's authorization. Upon authorization, actual work shall not exceed the Contractor's estimate without Authority's prior written approval.
2. Authority reserves the right to make or obtain other estimates prior to authorizing the Contractor to proceed in order to comply with the requirements of federal regulations to determine price reasonableness. If the estimate is considered not to be reasonable, the Contractor will be asked to review his estimate and resubmit. If the revised estimate is still considered to be unreasonable, Authority reserves the right to obtain the work from another source.



**Exhibit A-2**  
**Work Authorization**

**Schedule Dates:**

Start Date: July 24, 2020

Completion Date: July 23, 2022

Statement of Work ("Exhibit A-1")

Work Authorization ("Exhibit A-2")

General Conditions for Non-construction work ("Exhibit B")

**Per Fee Schedules Below:**

Item	Description	Unit	Unit Price
Provide pricing for Environmental Abatement services per the specifications listed in RFP PC 947:			
1	<b>LABOR FOR ABATEMENT SERVICES</b> (Regular Hours 6 am-6 pm)		
	ACM Superintendent/Project Mgr.	Hour	107.50
	ACM Foreman/Supervisor	Hour	105.16
	ACM Removal Worker	Hour	105.16
	LBP Foreman/Supervisor	Hour	105.16
	LBP Removal Worker	Hour	105.16
	Mold Foreman/Supervisor	Hour	105.16
	Mold Removal Worker	Hour	105.16
	Clerical/Administrative/Accounting	Hour	32.45
2	<b>LABOR FOR ABATEMENT SERVICES</b> (After Hours 6 pm- 6 am)		
	ACM Superintendent/Project Mgr.	Hour	107.50
	ACM Foreman/Supervisor	Hour	105.16
	ACM Removal Worker	Hour	105.16
	LBP Foreman/Supervisor	Hour	105.16
	LBP Removal Worker	Hour	105.16
	Mold Foreman/Supervisor	Hour	105.16
	Mold Removal Worker	Hour	105.16
	Clerical/Administrative/Accounting	Hour	32.45
3	<b>HAZARDOUS TRANSPORTATION &amp; DISPOSAL COSTS</b>		
	Hazardous Disposal ACM(per bag)		25

Item	Description	Unit	Unit Price
	Non-Hazardous Disposal ACM(per bag)		25
	Hazardous Disposal LBP(per bag)		100
	Non-Hazardous Disposal LBP(per bag)		100
	Non-Hazardous Mold Impacted Construction Materials Disposal (per bag)		3.25
	ACM Minimum Transport (each)		200
	LBP Minimum Transport (each)		200
	Mold Minimum Transport (each)		200
	General Debris/Construction Debris Transport (bin)		700
	Friable ACM drum (per drum)		300
<b>4</b>	<b>ADDITIONAL CHARGES/SERVICES</b>		

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**July 14, 2020**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Contract Amendment with Noble E&C Inc. for interior Plumbing Re-pipe Services at the Parkside Pines Affordable Housing Community

## **RECOMMENDATION(S)**

1. Approve Amendment No.1 to Contract No. PC1111 with Noble E&C Inc. for interior plumbing re-pipe services at the Parkside Pines Affordable Housing community increasing the total contract amount by \$64,263, from \$472,600 to a not-to-exceed \$536,863 and extending the contract through August 31, 2020.
2. Authorize and direct the Executive Director to execute and deliver the contract amendment to Noble E&C Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **GOALS & OBJECTIVES**

**HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.**

**HACSB clients live in safe and desirable homes and communities where they can develop and prosper.**

**HACSB has secured the resources needed for accomplishing its mission.**

## **FINANCIAL IMPACT**

This item is not expected to exceed \$536,863 and is funded through the Housing Authority of the County of San Bernardino (HACSB) reserve account that has been established for this property's Rental Assistance Demonstration (RAD) conversion process.

## **BACKGROUND INFORMATION**

HACSB has actively pursued the United States Department of Housing and Urban Development's (HUD) RAD program in order to convert its Public Housing units to Project-Based Housing Choice Voucher (HCV) units. This allows for the stabilization of revenue to these communities as traditionally HCV funding has been less prone to cuts than the Public Housing program. HACSB has converted over 1,000 units under the RAD program since 2013 and the Parkside Pines Affordable Housing community is one of the most recent RAD conversions, consisting of 85 units.

One important component of the RAD program is to conduct a Physical Condition Assessment (PCA) of the converting properties to determine what capital improvement work is required at each property. Completing the work identified in the PCA is a condition that must be met for the RAD conversion. Parkside Pines community property was constructed in 1954 and part of the capital work has been identified in the PCA. HACSB has procured a vendor to update the plumbing infrastructure of the property. Blueprints provided to the contractor showed one continuous sewer lateral to each unit. During the trenching operations, it was discovered that the existing sewer locations did not match the blueprints. There is an additional piping configuration

Contract Amendment with Noble E&C Inc. for interior Plumbing Re-pipe Services at the Parkside Pines Affordable Housing Community  
July 14, 2020

in the yard providing water service to the kitchen and the restroom. The additional trenching, piping, and plumbing connections based on this unforeseen piping configuration have resulted in the request for this change order by the vendor.

#### **PROCUREMENT**

HACSB previously issued an Invitation for Bid (IFB) PC1111 for Interior Plumbing Re-pipe Colton RAD Rehab on May 7<sup>th</sup> 2019 which resulted in the receipt of two proposals. The proposals were evaluated per the requirements of the IFB in which Noble E&C Inc. was the lowest bidder, considered responsive, and determined responsible to provide this service to HACSB.

On August 20, 2019, the Board of Governors (Item No. 1) awarded a contract to Nobel E&C Inc. for interior plumbing re-pipe services for the Parkside Pines Affordable Housing community in Colton, in an amount not to exceed \$472,600.

#### **REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.



**AMENDMENT #1 TO CONTRACT FOR COLTON REPIPE R.A.D REHAB PROJECT (PC1111)**

**BETWEEN**

**THE HOUSING AUTHORITY OF THE  
COUNTY OF SAN BERNARDINO**

**And**

**NOBLE E&C INC.**

The effective date of this amendment is July 15, 2020 and will remain in effect until August 31, 2020 unless otherwise terminated by either party, according to the General Contract Conditions included within the original contract documents dated August 13, 2019. ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT.

The following change(s) are ordered:

**Item No. 1:**

CO#1 - 2" Drain coming from kitchen	Kitchen Sewer Drain Line	\$57,615.00
CO#2 - Kit Sewer broken in wall	Break Footing for Kitchen Sewer 2" Drain, 1 Unit	\$506.00
CO#3 - Water main line broken 785 Berry	Connect 2" water main line, 1 Unit	\$400.20
CO#4 - Underground trenching	Delay to the digging by the unexpected obstacles (Tree Roots	\$5,060.00
CO#5 - Water & Sewer not in normal locations - DENIED	DENIED	\$0.00
CO#6 - Kitchen sewer broken	Break Footing for Kitchen Sewer 2" Drain, 1 Unit	\$268.23
CO#7 - Install Auto Recirc pump at Comm Room	1 Install Auto Recirculation Pump at Management Office	\$414.00

**Net Contract Effect:**

Original Contract Amount Not to Exceed	\$472,600.00
Net Change Orders Previously Approved	\$0.00
Net Change Due to This Change Order # 1,2,3,4,6,7 Not-to-Exceed	\$64,263.00
Contract Value as Amended Not-to-Exceed	\$536,863.00

Please refer to article 3 of the original contract dated August 13, 2019 for pricing details.

The compensation (time and cost) set forth in this Amendment shall comprise the total compensation due the Contractor for the work or change defined in the Amendment, including impact on unchanged work. By signing the Amendment, the Contractor acknowledges and agrees that the stipulated compensation includes payment for all work contained in the Amendment, plus all payment for the interruption of schedules, extended overhead costs, delay, and all impact, ripple effect or cumulative impact on all other work under the Contract. The signing of the Amendment shall indicate that the Amendment constitutes full mutual accord and satisfaction for the change, and that the time and/or cost under the Amendment constitutes the total equitable adjustment owed the Contractor as a result of the change.

This Amendment, consisting of two (2) pages, is executed by the persons signing below who warrant they have the authority to execute the amendment under the original contract.

IN WITNESS WHEREOF, the Housing Authority of the County of San Bernardino and Noble E &c Inc. have signed the amendment.

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**NOBLE E&C INC.**

**THE HOUSING AUTHORITY OF  
COUNTY OF SAN BERNARDINO**

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Signature

---

Signature

---

Title

---

Executive Director

---

Date

---

Date

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**July 14, 2020**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Regular Meeting Minutes for Meeting Held on June 9, 2020

**RECOMMENDATION(S)**

Approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on June 9, 2020.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**GOALS & OBJECTIVES**

**HACSB communication is open, honest and consistent.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there are no financial impacts associated with this item.

**BACKGROUND INFORMATION**

The HACSB Board of Commissioners (Board) Regular Meeting took place on June 9, 2020, and attached are the comprehensive minutes for review and approval by the Board.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.

**MINUTES OF A REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF  
THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO  
June 9, 2020**

The Board of Commissioners of the Housing Authority of the County of San Bernardino met in a regular meeting via teleconference and videoconference (Zoom at call-in number (669) 900-6833, Meeting ID 816 9202 0345, Password 585595) at 3:05 p.m. on June 9, 2020.

The meeting was called to order by the Vice Chairman, Commissioner Cooper, and upon roll call, the following were present:

Commissioner Cooper  
Commissioner MacDuff  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller  
Commissioner Muñoz

Also in attendance were: Maria Razo, Executive Director; Gus Joslin, Deputy Executive Director; Ana Gamiz, Director of Policy & Public Relations; Rishad Mitha, Director of Operations; Jesse Diaz, Finance Manager; Ron Ruhl, Real Estate Development Manager; Angie Lardapide, Procurement and Contracts Supervisor; Kristin Maithonis, Assistant Director of Housing Services; Renee Kangas, Management Analyst; Nicole Beydler, Sr. Management Analyst and Claudia Hurtado, Executive Assistant.

Also present: Julie Surber, Legal Counsel to the Housing Authority.

The Vice Chairman called for additions or deletions to the June 9, 2020 agenda. Secretary of the Board declared there were no additions or deletions to the June 9, 2020 agenda.

The Vice Chairman provided an opportunity for members of the public to address the Board of Commissioners. Secretary of the Board, declared that no public comment had been submitted.

The Executive Director's Report was requested.

Maria Razo, Executive Director gave the Executive Director's Report.

Approval for discussion calendar item number 5, to 1) Approve Memorandum of Understanding with Foothill AIDS Project to administer the Housing Opportunities for Persons with AIDS program for one year effective July 1, 2020 through June 30, 2021, in the amount not to exceed \$546,100, and may be extended for one-year periods upon written agreement by both parties. 2) Authorize and direct the Executive Director to execute and deliver Memorandum of Understanding to Foothill AIDS Project, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Executive Director explained the item.

Chairman, Commissioner Johnson, entered the Board of Commissioners meeting at 3:22 p.m.



Commissioner Miller moved to approve the discussion calendar item number 5 to 1) Approve Memorandum of Understanding with Foothill AIDS Project to administer the Housing Opportunities for Persons with AIDS program for one year effective July 1, 2020 through June 30, 2021, in the amount not to exceed \$546,100, and may be extended for one-year periods upon written agreement by both parties. 2) Authorize and direct the Executive Director to execute and deliver Memorandum of Understanding to Foothill AIDS Project, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, to approve any non-substantive revisions necessary to complete the transaction, which motion was duly seconded by Commissioner Tarango, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson  
Commissioner Cooper  
Commissioner MacDuff  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller  
Commissioner Muñoz

Nays

Approval for the discussion calendar item number 6, to 1) Adopt Project-Based Voucher Housing Assistance Payments Contract with 7 Arrows Properties LLC for a 10 year period from August 1, 2020 through July 31, 2030 for the Housing Opportunities for Persons with AIDS Program. 2) Approve and direct the Executive Director to execute and deliver the Project-Based Voucher Contract to 7 Arrows Properties LLC, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Executive Director explained the item.

Commissioner Miller moved to approved the discussion calendar item number 6, to 1) Adopt Project-Based Voucher Housing Assistance Payments Contract with 7 Arrows Properties LLC for a 10 year period from August 1, 2020 through July 31, 2030 for the Housing Opportunities for Persons with AIDS Program. 2) Approve and direct the Executive Director to execute and deliver the Project-Based Voucher Contract to 7 Arrows Properties LLC, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, which motion was duly seconded by Commissioner Muñoz, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson  
Commissioner Cooper  
Commissioner MacDuff  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller

Nays

Commissioner Muñoz

Approval for the discussion calendar item number 7, to 1) Approve Amendment No. 2 to non-financial Memorandum of Understanding with the San Bernardino County Department of Behavioral Health for the Veterans Housing Initiative Program, updating contractual language, and extending the term one additional year, effective July 1, 2020 through June 30, 2021. 2) Authorize and direct the Executive Director to execute and deliver the contract amendment to the County of San Bernardino, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Executive Director explained the item.

Commissioner Miller moved to approve the discussion calendar item number 7, to 1) Approve Amendment No. 2 to non-financial Memorandum of Understanding with the San Bernardino County Department of Behavioral Health for the Veterans Housing Initiative Program, updating contractual language, and extending the term one additional year, effective July 1, 2020 through June 30, 2021. 2) Authorize and direct the Executive Director to execute and deliver the contract amendment to the County of San Bernardino, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, which motion was duly seconded by Commissioner Muñoz, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson  
Commissioner Cooper  
Commissioner MacDuff  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller  
Commissioner Muñoz

Nays

Approval for the discussion calendar item number 8, to 1) Approve a contract, effective July 1, 2020, with the County of San Bernardino's Transitional Assistance Department for the provision of California Work Opportunity and Responsibility to Kids Housing Support Program services in an amount not to exceed \$6,480,000 through June 30, 2021. 2) Authorize and direct the Executive Director to execute and deliver the contract to the County of San Bernardino's Transitional Assistance Department and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Executive Director explained the item.

Commissioner Miller moved to approve the discussion calendar item number 8, to 1) Approve a contract, effective July 1, 2020, with the County of San Bernardino's Transitional Assistance Department for the provision of California Work Opportunity and Responsibility to Kids Housing Support Program services in an amount not to exceed \$6,480,000 through June 30, 2021. 2) Authorize and direct the Executive Director to execute and deliver the contract to the County of San Bernardino's Transitional Assistance Department and, upon consultation with

Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, which motion was duly seconded by Commissioner Muñoz, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson  
Commissioner Cooper  
Commissioner MacDuff  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller  
Commissioner Muñoz

Nays

Approval for the discussion calendar item number 9, to 1) Approve a contract, effective July 1, 2020, with Knowledge and Education for Your Success, Inc. for the provision of California Work Opportunity and Responsibility to Kids Housing Support Program Housing Navigator Services in an amount not to exceed \$6,480,000 through June 30, 2021. 2) Authorize and direct the Executive Director to execute and deliver the contract to Knowledge and Education for Your Success, Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Executive Director explained the item.

Commissioner Tarango moved to approve the discussion calendar item number 9, to 1) Approve a contract, effective July 1, 2020, with Knowledge and Education for Your Success, Inc. for the provision of California Work Opportunity and Responsibility to Kids Housing Support Program Housing Navigator Services in an amount not to exceed \$6,480,000 through June 30, 2021. 2) Authorize and direct the Executive Director to execute and deliver the contract to Knowledge and Education for Your Success, Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, which motion was duly seconded by Commissioner Muñoz, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson  
Commissioner Cooper  
Commissioner MacDuff  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller  
Commissioner Muñoz

Nays

Approval for the discussion calendar item number 10, to 1) Adopt Resolution No. 86:

a. Authorizing acceptance of the transfer of title of the real property located at 15876 Chehalis Road, Apple Valley, CA 92307 from HPI Property Acquisitions LLC to the Housing Authority of the County of San Bernardino;

- b. Authorizing the addition of the Housing Authority of the County of San Bernardino as 49% member of HPI Property Acquisitions LLC; and
- c. Authorizing the Housing Authority of the County of San Bernardino to serve as co-Nonrecourse Guarantor for the benefit of PNC bank with regard to the loan(s) refinancing five properties owned by HPI Property Acquisitions LLC.
- d. Authorize and direct the Executive Director, upon consultation with Legal Counsel, to execute and deliver all documents and agreements necessary to accept the title to the Chehalis property and consummate the role in the limited liability company, including the Articles of Organization and Operating Agreement, the Nonrecourse Guaranty, and other ancillary documents necessary to carry out and close the refinancing of the HPI Property Acquisitions LLC's loan with PNC Bank and to approve any non-substantive revisions necessary to complete the transaction, was requested.

Executive Director explained the item.

Commissioner Miller moved to approve the discussion calendar item number 10, to 1) Resolution No. 86:

- a. Authorizing acceptance of the transfer of title of the real property located at 15876 Chehalis Road, Apple Valley, CA 92307 from HPI Property Acquisitions LLC to the Housing Authority of the County of San Bernardino;
- b. Authorizing the addition of the Housing Authority of the County of San Bernardino as 49% member of HPI Property Acquisitions LLC; and
- c. Authorizing the Housing Authority of the County of San Bernardino to serve as co-Nonrecourse Guarantor for the benefit of PNC bank with regard to the loan(s) refinancing five properties owned by HPI Property Acquisitions LLC.
- d. Authorize and direct the Executive Director, upon consultation with Legal Counsel, to execute and deliver all documents and agreements necessary to accept the title to the Chehalis property and consummate the role in the limited liability company, including the Articles of Organization and Operating Agreement, the Nonrecourse Guaranty, and other ancillary documents necessary to carry out and close the refinancing of the HPI Property Acquisitions LLC's loan with PNC Bank and to approve any non-substantive revisions necessary to complete the transaction, which motion was duly seconded by Commissioner Muñoz, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson  
Commissioner Cooper  
Commissioner MacDuff  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller  
Commissioner Muñoz

Nays

Approval of consent calendar items 9 through 12, to 1) approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on May 12, 2020, 2) approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month ending in February 2020, 3) Approve vacated tenant accounts for the Authority Owned portfolio to be written off as collection losses for the month ending in March 2020, 4) approve and file Agency-wide Financial Statements through January 2020, was requested.

Commissioner Miller moved to approve the consent calendar items number 12 through 14, to 1) approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on May 12, 2020, 2) approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month ending in April 2020, 3) approve and file Agency-wide Financial Statements through February 2020, which motion was duly seconded by Commissioner Muñoz, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson  
Commissioner Cooper  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller  
Commissioner MacDuff  
Commissioner Muñoz

Nays

Chairman provided an opportunity for individual Board member comments. There were no comments.

There being no other business, Chairman moved for the regular meeting of Tuesday, June 9, 2020 to be adjourned, which motion was duly seconded by Commissioner Tarango, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson  
Commissioner Cooper  
Commissioner MacDuff  
Commissioner Pinedo  
Commissioner Tarango  
Commissioner Miller  
Commissioner Muñoz

Nays

The meeting adjourned at 4:15 p.m.

Minutes of a Regular Meeting of the Board of Governors of the Housing Authority of the County  
of San Bernardino for June 9, 2020

Page 7

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Tim Johnson, Chair

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Beau Cooper, Vice Chair

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Cassie MacDuff

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Sylvia Miller

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Jessie Muñoz

---

Dr. Ciriaco “Cid” Pinedo

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Bobby Tarango

Attest:

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Secretary

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

July 14, 2020

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss for the Month Ending May 2020

**RECOMMENDATION(S)**

Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month ending in May 2020.

(Presenter: Maria Razo, Executive Director, 332-6305)

**GOALS & OBJECTIVES**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**FINANCIAL IMPACT**

The accounts receivable losses for the month ending May 31, 2020 are \$51,411.30. The Housing Authority of the County of San Bernardino (HACSB) projects and anticipates collection losses in their annual budget. The monthly losses as detailed below are in line with the budgeted losses and historical trends.

**BACKGROUND INFORMATION**

On a monthly basis, HACSB records vacated tenant accounts for the Authority Owned Portfolio for the purpose of being written off to collection losses. The agency's Authority Owned Portfolio units are owned by HACSB and were either acquired or developed through a variety of partnerships with local governments and/or HACSB's non-profit affiliate Housing Partners I, Inc. Despite the agency's reasonable efforts to collect the debts listed in the attached reports, it has been determined that such debts are uncollectible. However, collection efforts will continue with the agency's contracted collection agency. As part of HACSB's standard property management business practices, Board of Commissioners approval is requested to write off these accounts as accounts receivable losses to the Authority Owned Portfolio. The total write off for the month of May 2020 is \$51,411.30 as delineated in the table below. Attached is a worksheet that itemizes the individual accounts.

<b>SUMMARY BY PROPERTY MANAGEMENT</b>		
<b>PROPERTY</b>	<b>NO. VACATED</b>	<b>TOTAL</b>
206-Colton	1	27.00
207 - Barstow	1	3,611.00
402- Summit Place	1	569.00
403 – Summit Walk	2	1,056.00
407 – Sunset Pointe	2	840.84
408 – Sunrise Vista	4	2,793.00
418 – Grandview	1	(13.20)

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss  
for the Month Ending May 2020  
July 14, 2020

<b>SUMMARY BY PROPERTY MANAGEMENT</b>		
<b>PROPERTY</b>	<b>NO. VACATED</b>	<b>TOTAL</b>
425a – Sequoia	1	199.00
426 – Sunnyside	1	1,541.00
432a – Van Leuven 14	1	(37.00)
432b – Van Leuven 8	1	122.00
Concessions Write Off		775.00
<b>TOTAL RENT WRITE OFF</b>	16	\$11,483.64
Miscellaneous Charges		\$157.00
Maintenance Charges*		\$47,655.66
Legal Charges		\$650.00
Security Deposits Applied		(\$8,535.00)
<b>NET TOTAL WRITE OFF</b>		\$51,411.30

\*Includes \$38,015.88 in unit damage due to a vehicle being driven into a unit. HACSB has initiated the process of an insurance claim with the driver's insurance company.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.



# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End:

05/31/20

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
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<b>206- Colton</b>													
1	G.	S.		V	\$ 194.00	\$ 27.00	\$ -	\$ -	\$ 513.50	\$ -	\$540.50	\$ 500.00	\$40.50
					<b>TOTALS:</b>	<b>27.00</b>	<b>-</b>	<b>-</b>	<b>513.50</b>	<b>-</b>	<b>540.50</b>	<b>500.00</b>	<b>40.50</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
										05/06/20

<b>207- Barstow</b>													
1	M.	R.		V	\$ 1,081.00	\$ 3,611.00	-	43.00	\$ 38,015.88	\$ 650.00	\$42,319.88	\$800.00	\$41,519.88
					<b>TOTALS:</b>	<b>3,611.00</b>	<b>-</b>	<b>43.00</b>	<b>38,015.88</b>	<b>650.00</b>	<b>42,319.88</b>	<b>800.00</b>	<b>41,519.88</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	3-day Notice	01/28/20	H	02/10/20	NA	Y		NA	NA	05/05/20

<b>402 - Summit Place</b>													
1	B.	C.		V	1,220.00	569.00			860.00		1,429.00	600.00	829.00
					<b>TOTALS:</b>	<b>569.00</b>	<b>-</b>	<b>-</b>	<b>860.00</b>	<b>-</b>	<b>1,429.00</b>	<b>600.00</b>	<b>829.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	COVID-19	04/28/20								05/14/20

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Vacancy

\*\*Unpaid Misc.: Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End:

05/31/20

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
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## 403 - Summit Walk

2	A.	A.					-		(289.00)		(289.00)		(289.00)
3	T.	W.		V	662.00	993.00			1,049.00		2,042.00	600.00	1,442.00
4	G.	S.		V	1,385.00	63.00	-		1,821.00		1,884.00	1,135.00	749.00
<b>TOTALS:</b>						<b>1,056.00</b>	-	-	<b>2,581.00</b>	-	<b>3,637.00</b>	<b>1,735.00</b>	<b>1,902.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
2	Payment on bad debt									
3	30 Day Notice	05/15/20								05/15/20
4	30 Day Notice	04/03/20								05/04/20

## 407 - Sunset Pointe

5	S.	M.					-		(112.20)		(112.20)		(112.20)
6	M.	G.					-		(2,841.63)		(2,841.63)		(2,841.63)
7	H.	J.		V	825.00	1,150.84	-		542.00		1,692.84	100.00	1,592.84
8	D.	S.		S	775.00	(310.00)	775.00		160.00		625.00	300.00	325.00
							-				-		-
<b>TOTALS:</b>						<b>840.84</b>	<b>775.00</b>	-	<b>(2,251.83)</b>	-	<b>(635.99)</b>	<b>400.00</b>	<b>(1,035.99)</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
5	Collection on bad debt									
6	Collection on bad debt									
7	30 Day Notice	04/10/20								05/29/20
8	Skip									05/18/20

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Vacancy

\*\*Unpaid Misc.: Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End:

05/31/20

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
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## 408 - Sunrise Vista

9	S.	J.		V	825.00	(264.00)	-		759.00		495.00	100.00	395.00
10	B.	F.		S	900.00	484.00	-		1,674.00		2,158.00	750.00	1,408.00
11	M.	D.		V	725.00	24.00	-		971.61		995.61	100.00	895.61
12	L.	L.		E	825.00	2,549.00	-		740.50		3,289.50	100.00	3,189.50
							-			-	-		-
<b>TOTALS:</b>						<b>2,793.00</b>	-	-	<b>4,145.11</b>	-	<b>6,938.11</b>	<b>1,050.00</b>	<b>5,888.11</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
9	30 Day Notice	04/01/20								05/04/20
10	Skip									05/18/20
11	30 Day Notice	04/01/20								05/01/20
12	3 Day Pay or Quit	02/13/20	Posted	03/13/20	N/A				courts closed due to COVID-resident moved out 04/30/20	04/30/20

## 410 - Merrill

13	M.	M.					-		(342.00)		(342.00)		(342.00)
							-				-		-
<b>TOTALS:</b>						-	-	-	<b>(342.00)</b>	-	<b>(342.00)</b>	-	<b>(342.00)</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
13	Payment on bad debt									

## 417 - Yucca

14	G.	R.					-		550.00		550.00		550.00
<b>TOTALS:</b>						-	-	-	<b>550.00</b>	-	<b>550.00</b>	-	<b>550.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
14	Adjustment to previous month write off									

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Vacancy

\*\*Unpaid Misc.: Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End:

05/31/20

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
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## 418 - Grandview

15	Murphy	Jacqueline	t0028026	V	700.00	(13.20)	-	14.00	466.00		466.80	300.00	166.80
							-				-		-
TOTALS:						(13.20)	-	14.00	466.00	-	466.80	300.00	166.80
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
15	30 Day Notice	04/17/20									05/17/20		

## 425a - Sequoia

16	S.	M.		V	950.00	199.00			1,220.00		1,419.00	1,000.00	419.00
											-		-
TOTALS:						199.00	-	-	1,220.00	-	1,419.00	1,000.00	419.00
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
16	30 Day Notice	03/01/20									05/11/20		

## 426 - Sunnyside

17	H.	T.		V	1,438.00	1,541.00			890.00		2,431.00	1,350.00	1,081.00
											-		-
TOTALS:						1,541.00	-	-	890.00	-	2,431.00	1,350.00	1,081.00
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
17	30 Day Notice	04/01/20									05/05/20		

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Vacancy

\*\*Unpaid Misc.: Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End:

05/31/20

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
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## 432a - Van Leuven 14

18	G.	A.		V	918.00	(37.00)		100.00	515.00		578.00	400.00	178.00
											-		-
TOTALS:						(37.00)	-	100.00	515.00	-	578.00	400.00	178.00

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
18	30 Day Notice	04/02/20								05/02/20

## 432b - Van Leuven 8

19	B.	X.		V	1,265.00	122.00			493.00		615.00	400.00	215.00
											-		-
TOTALS:						122.00	-	-	493.00	-	615.00	400.00	215.00

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
19	Death	04/12/20								04/30/20

ALL PROPERTY TOTALS:						10,708.64	775.00	157.00	47,655.66	650.00	59,946.30	8,535.00	51,411.30
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Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc.:

Stipulated agreements for rent, maintenance charges, late charges, etc.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**July 14, 2020**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Agency-wide Financial Statements through March 2020

**RECOMMENDATION(S)**

Approve and file Agency-wide Financial Statements through March 2020.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**GOALS & OBJECTIVES**

**HACSB has secured the resources needed for accomplishing its mission.**

**FINANCIAL IMPACT**

The Housing Authority of the County of San Bernardino's (HACSB) year-to-date agency-wide net income through March 2020 for Federal Fiscal Year (FFY) 2019-20 is \$12,435,710. The net income is currently greater than the anticipated \$795,069 gain, with a variance of \$11.9 million, primarily due to:

- Housing Assistance Payment (HAP) expenses were significantly higher due to an increased cost per unit. A draw from HACSB's United States Department of Housing and Urban Development (HUD) held reserve was received in the amount of \$4.2 million for increased expenses in the last calendar year and does not offset the current year's increased cost per unit.
- Depreciation expense reflected monthly is not included in the annual budget which amounts to \$2.9 million.
- Physical Needs Assessment and Capital Fund project expenses that were lower than expected, which also lowered the amount of Capital Fund grant income that was recognized. This is primarily due to the timing of these expenses which will occur later this year (reflected in the extraordinary maintenance expenses line item) and amounts to \$6.2 million.
- Administrative and maintenance expenses are lower due to vacant positions, which we expect to fill later in the year as well as other administrative savings which amounts to \$1.8 million.

<b>Financial Summary</b>	<b>FY 2020 YTD</b>
Revenues	\$88,547,276
Expenses	\$73,177,821
Operating Gain	\$15,369,455
Operating Transfers/Non-Operating Items	\$(2,933,745)
<b>Net Income/(Loss)</b>	<b>\$12,435,710</b>

### **BACKGROUND INFORMATION**

HACSB administers multiple housing programs and is the largest provider of affordable housing in the County of San Bernardino. The FFY 2019-20 budget and financial operations continue to support the vision and mission of HACSB and are in line with its Strategic Plan and Moving to Work Annual Plans. Overall, HACSB has demonstrated fiscal stability even though the primary funding provider, the HUD, has significantly decreased funding each year while expecting full program utilization. FFY 2019-20 continues to be another challenging year due to the following:

- Anticipated federal funding cuts to the Housing Choice Voucher (HCV) program, Administrative Fees, Public Housing Subsidy and Capital Funds.
- Expected reserve drawdowns in order to balance the FFY budget for the HCV program due to rental assistance costs exceeding funding. HACSB is currently working with HUD on this matter. A drawdown of HUD held reserves will be processed for any increases in HAP expenses from Jan – March 2020.
- Additional projections are also underway to forecast COVID-19 related expenditures and income losses, including related increases to the housing assistance payments for the voucher programs and rental income loss.
- Maintenance of aging properties is extremely costly, but it is needed to preserve much needed affordable housing in the County.

Based on HUD's guidance to routinely present key information to HACSB's Board of Commissioners, HACSB is presenting the financial statements on a monthly basis.

### **PROCUREMENT**

Not applicable.

### **REVIEW BY OTHERS**

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on June 26, 2020.

## HACSB Budget Comparison

Period = Oct 2019-Mar 2020

	YTD Actual	YTD Budget	Variance	% Var	Annual
INCOME					
TENANT INCOME					
Total Rental Income	13,245,137	12,857,944	387,193	3.01	25,890,742
Total Other Tenant Income	349,336	289,376	59,960	20.72	578,752
NET TENANT INCOME	13,594,474	13,147,320	447,154	3.40	26,469,494
GRANT INCOME					
TOTAL GRANT INCOME	71,725,012	61,849,777	9,875,235	15.97	123,414,095
OTHER INCOME					
TOTAL OTHER INCOME	3,227,790	3,408,278	-180,488	-5.30	5,639,874
TOTAL INCOME	88,547,276	78,405,375	10,141,901	12.94	155,523,464
EXPENSES					
GRANT EXPENSES					
TOTAL GRANT EXPENSES	3,488,568	3,051,111	-437,457	-14.34	6,102,222
ADMINISTRATIVE					
Total Administrative Salaries	6,294,380	6,741,783	447,403	6.64	13,511,215
Total Legal Expense	122,403	172,864	50,460	29.19	345,727
Total Other Admin Expenses	2,754,715	2,718,916	-35,799	-1.32	5,646,658
Total Miscellaneous Admin Expenses	1,200,605	1,678,870	478,265	28.49	2,938,056
TOTAL ADMINISTRATIVE EXPENSES	10,372,104	11,312,433	940,329	8.31	22,441,656
TENANT SERVICES					
TOTAL TENANT SERVICES EXPENSES	137,219	194,227	57,008	29.35	389,453
UTILITIES					
TOTAL UTILITY EXPENSES	1,641,636	1,820,241	178,605	9.81	3,640,484
MAINTENANCE AND OPERATIONS					
Total General Maint Expense	1,295,448	1,435,577	140,128	9.76	2,869,153
Total Materials	401,737	435,638	33,901	7.78	871,275
Total Contract Costs	1,523,644	2,245,263	721,619	32.14	4,485,145
TOTAL MAINTENANCE EXPENSES	3,220,829	4,116,478	895,649	21.76	8,225,573
GENERAL EXPENSES					
TOTAL GENERAL EXPENSES	603,048	625,850	22,802	3.64	1,241,332
EXTRAORDINARY MAINTENANCE EXPENSES					
TOTAL EXTRAORDINARY MAINTENANCE EXPENSES	967,941	7,181,773	6,213,832	86.52	14,767,546
HOUSING ASSISTANCE PAYMENTS					
TOTAL HOUSING ASSISTANCE PAYMENTS	51,964,281	48,494,252	-3,470,029	-7.16	97,841,355
FINANCING EXPENSE					
TOTAL FINANCING EXPENSES	782,194	813,942	31,748	3.90	1,627,884
TOTAL OPERATING EXPENSES	73,177,821	77,610,306	4,432,486	5.71	156,277,505
<b>OPERATING NET INCOME</b>	<b>15,369,455</b>	<b>795,069</b>	<b>14,574,386</b>	<b>1,833.10</b>	<b>-754,041</b>
NET OPERATING TRANSFER IN/OUT	0	285,783	285,783	100.00	285,783
NON-OPERATING ITEMS					
TOTAL NON-OPERATING ITEMS	2,933,745	0	-2,933,745	N/A	0
NET INCOME	12,435,710	509,286	11,926,424	2,341.79	-1,039,824