



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

February 17, 2010

OFFICE OF PUBLIC AND INDIAN HOUSING

Susan Brenner  
Executive Director  
Housing Authority of the County of San Bernardino  
715 East Brier Drive  
San Bernardino, CA 92408-2841

Subject: Executed Second Amendment and Attachments A and D to the Standard MTW Agreement

Dear Ms. Brenner,

Enclosed you will find the executed Second Amendment to the Standard Moving to Work (MTW) Agreement, which was signed and executed by Ms. Sandra Henriquez, Assistant Secretary for Public and Indian Housing, on February 16, 2010. Enclosed you will also find the updated Attachment A, *Calculation of Subsidies*, and Attachment D, *Community-Specific Authorizations*, to the Standard Agreement.

If you have any questions, please do not hesitate to contact Ms. Marianne Nazzaro, your MTW Coordinator, at 202-402-4306.

Sincerely,

A handwritten signature in black ink, appearing to read "Ivan Pour".

Ivan Pour  
MTW Program Director  
Office of Public Housing Investments

cc: K.J. Brockington, Los Angeles Field Office

**SECOND AMENDMENT**  
**TO**  
**MOVING TO WORK AGREEMENT**  
**BETWEEN**  
**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**AND**  
**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**

This Second Amendment to the Moving to Work ("MTW") Agreement dated March 14, 2008 ("Agreement") is entered into by and between the United States of America through the U.S. Department of Housing and Urban Development ("HUD") and the Housing Authority of the County of San Bernardino ("Agency") and is effective as of February 16, 2010, 2009. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings ascribed to them in the Agreement. The Attachment A and the Attachment D are amended as follows:

Attachment A is amended as follows:

C. Housing Choice Voucher Program (HCVP) Subsidy.

11. For purposes of the Housing Choice Voucher Program funding eligibility for 2010, prior to proration, HAP subsidy calculations will be based on FFY 2008 VMS reported expenses adjusted by the 2009 Annual Adjustment Factor (AAF). This amount will then be inflated by the 2010 AAF.

Attachment D is amended as follows:

Add the following language before Section A:

**Use of MTW Funds** (added 12/15/09)

The Agency and HUD acknowledge that Section 204(a) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) provides that an agency participating in the MTW demonstration program may combine public housing operating and capital funds provided under Section 9 of the U.S. Housing Act of 1937 (the "1937 Act") and voucher program funds provided under Section 8 of the 1937 Act "to provide housing assistance for low-income families, as defined in section 3(b)(2) of the 1937 Act, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve."

The Agency and HUD further acknowledge that the terms of the agreement under which the Agency participated in the MTW demonstration program prior to the Amended and Restated MTW Agreement (the "Original MTW Agreement") did not state that the use of such combined

public housing operating and capital funds and voucher program funds (collectively, "MTW Funds") was restricted to those uses specified in Sections 8 and 9 of the 1937 Act.

The Agency and HUD hereby agree that they do not intend for the Amended and Restated MTW Agreement to limit or restrict the authority to use MTW Funds as provided by the Original MTW Agreement, that notwithstanding any language to the contrary, those provisions in this Agreement or its attachments that restrict the use of funds to Sections 8 and 9 are repealed, and the Agency may use MTW Funds to provide housing assistance for low-income families, as defined in section 3(b)(2) of the 1937 Act, and services to facilitate the transition to work, whether or not any such use is authorized by Sections 8 or 9 of the 1937 Act, provided such uses are consistent with other requirements of the MTW statute [i.e., including but not limited to the requirements to maintain a comparable mix of families and serve substantially the same number of families as would have been assisted if the Agency were not in the MTW demonstration, assuring that housing assisted under the demonstration meets housing quality standards established or approved by the Secretary, that at least 75 percent of the families assisted be very low income families, that the agency has established a reasonable rent policy that is designed to encourage employment and self-sufficiency by participating families, that the requirements of sections 12 of the 1937 Act are applied to any housing assisted under the demonstration other than housing assisted solely because of occupancy by families receiving tenant-based assistance, and that Section 18 of the 1937 Act shall continue to apply to public housing notwithstanding the use of any use of the housing under the demonstration] and have been proposed in an Agency's Annual MTW Plan and approved by HUD.

Notwithstanding the above, such funds remain Federal funds, and are subject to any and all other Federal requirements outside of the 1937 Act (e.g., including but not limited to Appropriations Acts, competitive HUD notices of funding availability under which the Agency has received an award, state and local laws, Federal statutes other than the 1937 Act, and OMB Circulars and requirements), as modified from time to time.

12/15/2009

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed by their duly authorized representatives.

HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO

By: Susan Benner

Name: Susan Benner

Its: Executive Director

Date: 1-29-2010

UNITED STATES DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT

By: Sandra B. Hernandez

Name: Sandra B. Hernandez

Its: Assistant Secretary

Date: 02/16/2010

**ATTACHMENT A**  
**CALCULATION OF SUBSIDIES**  
**TO**  
**MOVING TO WORK AGREEMENT**  
**BETWEEN**  
**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**AND**  
**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**

Upon execution of the Second Amendment to the Moving to Work (MTW) Agreement (MTW Agreement) between the U.S. Department of Housing and Urban Development (HUD) and the Housing Authority of the County of San Bernardino (Agency), HUD will provide the Agency with operating subsidy, capital funds and Housing Choice Voucher Program assistance as described below.

This Attachment A is updated and revised per the Second Amendment to the HACSB's Agreement dated February 16, 2010.

**A. Operating Subsidy**

1. The calculation of operating subsidy will continue in accordance with applicable operating subsidy formula law and regulations.
2. For operating funds provided in years prior to the execution of the MTW Agreement, the Agency may use any accumulated operating reserves for eligible MTW purposes, subject to applicable provisions of the MTW Agreement.
3. All funds programmed for MTW purposes will be recorded and drawn from MTW designated line items on relevant HUD forms.

**B. Capital Funds Program**

1. The Agency's formula characteristics and grant amounts will continue to be calculated in accordance with applicable law and regulations.
2. All funds programmed for MTW purposes will be recorded and drawn from MTW designated line items on relevant HUD forms.
3. For capital funds provided in years prior to the execution of the MTW Agreement, the Agency may submit, and HUD will, as permitted by law, approve a request to reprogram, by grant year, any unobligated funds for eligible MTW purposes.

**C. Housing Choice Voucher Program (HCVP) Subsidy**

1. For purposes of the Housing Choice Voucher Program funding, the Initial Year is calendar year 2009 (January 1, 2009 through December 31, 2009).
2. For purposes of the Housing Choice Voucher program funding, the base period for calculating initial funding is the baseline period established in the 2009 Appropriations or otherwise established for FFY 2009.

3. Initial year (CY 2009) HCVP housing assistance payments (HAP) subsidy will be based on the actual HAP expenses incurred by the Agency in the base period (established in the 2009 Appropriations or otherwise established for FFY 2009.). Initial year HCVP administrative fee funding will be based on the requirements of the Consolidated Appropriations Act, FY 2008.
4. Funding eligibility for the HCVP HAP in the Initial Year of this agreement will be equal to the base period expenses, adjusted for new units not fully represented in the base period expenses, and adjusted by the Annual Adjustment Factor (AAF) and by the applicable proration factor, The Administrative Fee funding will be adjusted by the applicable proration factor. For subsequent years, the HAP subsidy will be equal to the previous year's HAP subsidy eligibility adjusted by the current year's AAF and applicable proration factor percentage. Similarly, the Administrative Fee funding for subsequent years will be equal to the previous year's Administrative Fee eligibility adjusted by the applicable proration factor. Funding eligibility in any year is subject to the requirements of the applicable Appropriations Act as it applies to MTW Agency.
5. If the Agency receives incremental HCVP funding, the Agency must decide to either apply the incremental funding to their MTW block grant or to keep the incremental funding separate, as provided by law. In some cases, incremental funding may not be eligible for inclusion in the block grant as may be dictated by law.
6. All HCVP funding provided by HUD and not restricted under item 5, above, or otherwise prohibited by law in the Initial Year and subsequent years under this agreement may be eligible for inclusion in the MTW flexible block grant.
7. The Agency will be eligible to receive Family Self Sufficiency coordinator funding in accordance with available appropriations and requirements.
8. There will be no year-end settlement of annual funds provided for the MTW HCVP subsidy. All funds provided through this calculation will remain available for authorized purposes.
9. Any sum held by the Agency in the Net Restricted Assets account resulting from HAP funding that exceeded HAP expenses for the period of January 1, 2005 through September 30, 2007, shall remain available and may be used for authorized purposes, subject to applicable provisions of the MTW Agreement and future appropriations statutes. Any sum held by the Agency resulting from Forfeited FSS Escrows and Fraud Recovery funds for the period of January 1, 2005 through September 30, 2007, shall remain available and may be used for authorized purposes, subject to applicable provisions of the MTW Agreement and future appropriations statutes. Any sum held by the Agency as excess administrative funds (Net Unrestricted Assets) shall remain available and may be used for authorized purposes subject to applicable provisions of the MTW Agreement and future appropriations statutes.
10. The agency will continue to receive reimbursement for FSS escrows deposited into participant's accounts, in any year for which the appropriations provides FSS escrow funding deposits for housing authorities. Funding eligibility in any year is subject to the requirements of the applicable Appropriations Act as it applies to MTW Agency.
11. For purposes of the Housing Choice Voucher Program funding eligibility for 2010, prior to proration, HAP subsidy calculations will be based on FFY 2008 VMS reported expenses adjusted by the 2009 Annual Adjustment Factor (AAF). This amount will then be inflated by the 2010 AAF. *[Added 12/15/09, per Second Amendment of HACSB's Standard MTW Agreement.]*

**ATTACHMENT D**

**COMMUNITY-SPECIFIC AUTHORIZATIONS**

**TO  
MOVING TO WORK AGREEMENT  
BETWEEN  
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**

This Attachment D describes and authorizes activities which may be implemented by the Housing Authority of the County of San Bernardino (the "Agency") pursuant to the Moving to Work Agreement between the Agency and HUD dated March 14, 2008, which together with any and all attachments, exhibits, and appendices thereto is hereinafter referred to as the "Agreement." Notwithstanding any other provision of this Agreement the Agency is authorized as follows:

**Use of MTW Funds**

The Agency and HUD acknowledge that Section 204(a) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) provides that an agency participating in the MTW demonstration program may combine public housing operating and capital funds provided under Section 9 of the U.S. Housing Act of 1937 (the "1937 Act") and voucher program funds provided under Section 8 of the 1937 Act "to provide housing assistance for low-income families, as defined in section 3(b)(2) of the 1937 Act, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve."

The Agency and HUD further acknowledge that the terms of the agreement under which the Agency participated in the MTW demonstration program prior to the Amended and Restated MTW Agreement (the "Original MTW Agreement") did not state that the use of such combined public housing operating and capital funds and voucher program funds (collectively, "MTW Funds") was restricted to those uses specified in Sections 8 and 9 of the 1937 Act.

The Agency and HUD hereby agree that they do not intend for the Amended and Restated MTW Agreement to limit or restrict the authority to use MTW Funds as provided by the Original MTW Agreement, that notwithstanding any language to the contrary, those provisions in this Agreement or its attachments that restrict the use of funds to Sections 8 and 9 are repealed, and the Agency may use MTW Funds to provide housing assistance for low-income families, as defined in section 3(b)(2) of the 1937 Act, and services to facilitate the transition to work, whether or not any such use is authorized by Sections 8 or 9 of the 1937 Act, provided such uses are consistent with other requirements of the MTW statute [i.e., including but not limited to the requirements to

maintain a comparable mix of families and serve substantially the same number of families as would have been assisted if the Agency were not in the MTW demonstration, assuring that housing assisted under the demonstration meets housing quality standards established or approved by the Secretary, that at least 75 percent of the families assisted be very low income families, that the agency has established a reasonable rent policy that is designed to encourage employment and self-sufficiency by participating families, that the requirements of sections 12 of the 1937 Act are applied to any housing assisted under the demonstration other than housing assisted solely because of occupancy by families receiving tenant-based assistance, and that Section 18 of the 1937 Act shall continue to apply to public housing notwithstanding the use of any use of the housing under the demonstration] and have been proposed in an Agency's Annual MTW Plan and approved by HUD.

Notwithstanding the above, such funds remain Federal funds, and are subject to any and all other Federal requirements outside of the 1937 Act (e.g., including but not limited to Appropriations Acts, competitive HUD notices of funding availability under which the Agency has received an award, state and local laws, Federal statutes other than the 1937 Act, and OMB Circulars and requirements), as modified from time to time.

#### **A. Administrative Issues**

##### **1. Suspension of Current Evaluation and Reporting Requirements**

- a. The Agency is designated a high performing agency under the current Public Housing Assessment System (PHAS) regulation. The Agency will continue its designation as a high performing agency until such time as the Department adopts a new PHAS regulation and the Agency can be fully scored under that regulation. At that time the Agency will no longer be designated a high performer. Thereafter, should the Agency wish to obtain high performer status, it must elect to be scored under the new PHAS regulation. The Agency may propose an alternative evaluation methodology in lieu of the PHAS regulation for approval by the Department. Such a methodology shall at a minimum incorporate the indicators set forth in Section 6(j) of the 1937 Act, and shall utilize a third party to assess performance.
- b. The Agency may propose an alternative evaluation methodology in lieu of the SEMAP regulation for approval by the Department.

#### **B. Authorizations Related to Section 8 Housing Choice Vouchers Only**

##### **1. Payment Standards**

The Agency may implement local payment standards that accurately reflect the varying rental submarkets that exist across San Bernardino County. The Agency will conduct a local market study to determine the appropriate fair market rent for each such submarket and implement appropriate payment standard schedules.

C E R T I F I C A T E

I, Susan L. Benner, Executive Director of the Housing Authority of the County of San Bernardino hereby certify that the attached Resolution No. 2263 was adopted by the Board of Commissioners by vote of the members present as the same appears in the Official Minutes of said Authority at the regular meeting of January 20, 2010.

January 25, 2010  
Date

*Susan L. Benner*  
Susan L. Benner  
Secretary

SEAL

**RESOLUTION NO. 2263**

**WHEREAS**, the Housing Authority of the County of San Bernardino entered into a Moving-to-Work (MTW) Agreement with the U.S. Department of Housing and Urban Development (HUD) on March 14, 2008, and

**WHEREAS**, the Housing Authority of the County of San Bernardino now desires to amend Attachment A of the Agreement to incorporate revised language to clarify how funding will be calculated for the Housing Choice Voucher program for Calendar Year 2010;

**WHEREAS**, the Housing Authority of the County of San Bernardino now desires to amend Attachment D of the Agreement to provide HACSB with the authority to use MTW funds to provide housing assistance for low-income families, whether or not any such use is authorized by Sections 8 or 9 of the 1937 Act, provided such uses are consistent with other requirements of the MTW statute;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of the Housing Authority of the County of San Bernardino does hereby adopt this Amendment to the Moving-to-Work Agreement.

Adopted: January 20, 2010