

# **Moving to Work (MTW) 2011 Annual Plan**

**for the Housing Authorities of the  
County of Santa Clara and  
the City of San José**

**April 13, 2010  
Revised June 23, 2010**



## Housing Authority of the County of Santa Clara (HACSC)

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HACSC's mission is to improve the lives of low-income families, persons with disabilities, and seniors in the County of Santa Clara by providing affordable, high-quality housing.

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## I. INTRODUCTION AND OVERVIEW

### Purpose of this Plan

This document describes how the Housing Authority of the County of Santa Clara (HACSC) proposes to carry out its Moving to Work (MTW) program in fiscal year 2011 (July 1, 2010 through June 30, 2011). This plan is required by the U.S. Department of Housing and Urban Development (HUD), and is the third plan prepared since HACSC signed a 10-year MTW Agreement with HUD in early 2008. (This agreement also applies to the Housing Authority of the City of San Jose, which is administered by HACSC.)

Established as an independent local government agency in 1967 by the Santa Clara County Board of Supervisors, HACSC provides rental housing assistance in various forms to over 17,000 low- and very-low income households throughout Santa Clara County. The Agency also manages over 2,500 units of affordable housing throughout the county.

### What is MTW?

MTW is a federal demonstration program established by Congress in 1996 that links broad federal goals with locally-designed actions. It encourages selected housing authorities to propose and implement innovative changes to the way affordable housing programs are administered in order to meet three broad federal goals:

- To decrease costs and increase cost effectiveness in housing program operations,
- To promote participants' economic self-sufficiency, and
- To expand participants' housing choices.

MTW requires HACSC to strive for these goals while ensuring that the Agency continues to serve substantially the same mix of tenants (in terms of income level and family size) and at least as many households as before it had MTW status.

### Summary of HACSC's Proposed and Ongoing MTW Activities

HACSC is proposing two new activities that require regulatory waivers under the MTW demonstration, and is carrying out 16 previously approved activities. Most of the implemented or "ongoing" activities involve streamlining of routine processes in the Housing Choice Voucher program, resulting in improved service to program participants and significant reductions in program costs.

The two proposed activities involve additional streamlining of routine processes in the Housing Choice Voucher program: one is aimed at helping tenants who require special accommodations to secure suitable housing more quickly, and the other removes a

redundant approval step and documentation requirement when third-party entities provide inspection and contract services for HACSC-owned properties.

From the beginning of its MTW demonstration, HACSC's goal has been to achieve savings through streamlining while ensuring solid program operations. Through the process of implementing approved MTW activities, staff found that key adjustments were needed to protect tenants; these adjustments were achieved by amending the MTW Plan and adding more activities.

For FY2011, HACSC plans to continue to focus on implementing activities that minimize unnecessary or low-value administrative tasks while developing and institutionalizing an effective approach to monitoring and evaluating the impacts of these program accomplishments. By stabilizing and continuing its streamlined operations, the Agency builds the basis to support its long-term vision of both increasing the supply of affordable housing and promoting economic self-sufficiency for tenants.

HACSC will tangibly support this long-term vision in a few key areas in FY2011. HACSC has made significant progress in FY2010 in building working partnerships with local service providers and city/county agencies for the purpose of addressing chronic homelessness. As a key member of the region's Homeless Collaborative, HACSC has worked with a task force that has nearly completed the design of a direct voucher referral program for the chronically homeless. Coupled with the 200 vouchers that HACSC will designate in FY2011 for this vulnerable population (for a total of 700 vouchers since FY2007), the direct referral program is eagerly anticipated and promises to make a real difference in the community.

To further support the expansion of housing options for low-income families, HACSC plans to allocate project-based vouchers through a competitive selection process in FY2011. This allocation will follow the completion of a needs assessment of special needs populations in Santa Clara County.

Finally, the Agency has submitted preliminary proposals to HUD to make use of the "broader use of funds authority" that has been made available to all MTW agencies. This process involves amending HACSC's MTW Agreement with HUD, developing plans and MTW activity proposals to amend the FY2011 Plan, and ultimately using Section 8 funds to implement activities that may fall outside of the Section 8 program but that meet the statutory goals of the MTW demonstration and HACSC's long-term MTW vision. HACSC expects to complete the initial step of executing an amendment to its MTW Agreement by the end of FY2010.

Section V of this report describes the three new activities that HACSC is proposing for FY2011. Section VI provides an update on the status of the activities previously approved by HUD. The table below offers an overview of the implementation status of HACSC's approved and proposed MTW activities and of how each activity relates to the MTW statutory objectives.

Activity # (Plan year proposed + Activity #)	Activity	MTW Statutory Objectives		
		Reduce cost and achieve greater cost effectiveness in federal expenditures	Provide incentives to families ... leading toward economic self-sufficiency	Increase housing choices for low-income families
<b>IMPLEMENTED IN FY2009</b>				
2009 – 1	Reduced Frequency of Tenant Reexaminations	X		
2009 – 2	Simplification and Expediting of the Income Verification Process	X		
2009 – 3	Reduced Frequency of Inspections	X		
2009 – 5	Exploring New Housing Opportunities for the Chronically Homeless			X
2009 – 10	Selection of HACSC-owned Public Housing Projects for PBV without Competition	X		
2009 – 13	Combined Waiting Lists for the County of Santa Clara and the City of San Jose	X		
<b>IMPLEMENTED OR ANTICIPATED FOR IMPLEMENTATION IN FY2010</b>				
2009 – 4	Timeline to Correct Housing Quality Standards (HQS) Deficiencies	X		
2009 – 8	30-Day Referral Process for Project-Based Vacancies			X
2009 – 9	Utilization of Low Income Housing Tax Credit (LIHTC) Tenant Income Certification (TIC) for Income and Asset Verification	X		
2009 - 11	Project-Base 100% of Units in Family Projects	X		X
2009 - 14	Payment Standard Changes Between Regular Reexaminations	X		
2010 - 1	Eliminating 100% Excluded Income from the Income Calculation Process	X		
2010 - 2	Excluding Asset Income from Income Calculations for Families with Assets Under \$50,000	X	X	
2010 - 3	Applying Current Increased Payment Standards at Interim Reexaminations	X		X

<b>PENDING IMPLEMENTATION</b>				
2010 - 4	Allocating Project-Based Vouchers to HACSC-owned Projects Without Competition	X		
2010 - 5	Assisting Over-Income Families Residing at HACSC-owned Project-Based Voucher Properties			X
<b>PROPOSED IN THIS FY2011 PLAN</b>				
2011 - 1	Streamlined approval process for exception payment standard for reasonable accommodation			X
2011 - 2	Simplify requirements regarding third-party inspections and rent services	X		

### Reaffirming HACSC’s MTW Philosophy and Objectives

HACSC’s MTW “philosophy” embraces the two core values of working collaboratively with all stakeholders and creating a superior business model for its operations to ensure high performance and long-term financial sustainability.

As stated in its previous Annual Plans, HACSC’s MTW planning process and implementation is guided by broad objectives that flow directly from the three statutory goals for the program:

In the area of increasing program cost-effectiveness, HACSC’s objectives include:

- Developing a more efficient and effective operation by simplifying and streamlining administrative and regulatory requirements;
- Enhancing the agency’s financial stability and ability to achieve its mission by maintaining balanced budgets and appropriate reserves, over time; and
- Improving its policies and procedures so that they better support program integrity, process efficiency, reduced bureaucracy, and fiscal responsibility.

In the area of participant self-sufficiency, HACSC’s objectives include:

- Promoting self-sufficiency and asset development to the maximum extent possible among participants by expanding current programs and developing new tools to enhance life skills;
- Improving the quality of life for low-income families by providing direct access to educational, social and economic development services and opportunities;
- Working in partnership with local community organizations to support approaches to ending homelessness and promoting self-sufficiency; and

- Designing policies and programs that build positive agency-tenant relationships and that effectively use incentives to support tenants' movement toward economic self-sufficiency.

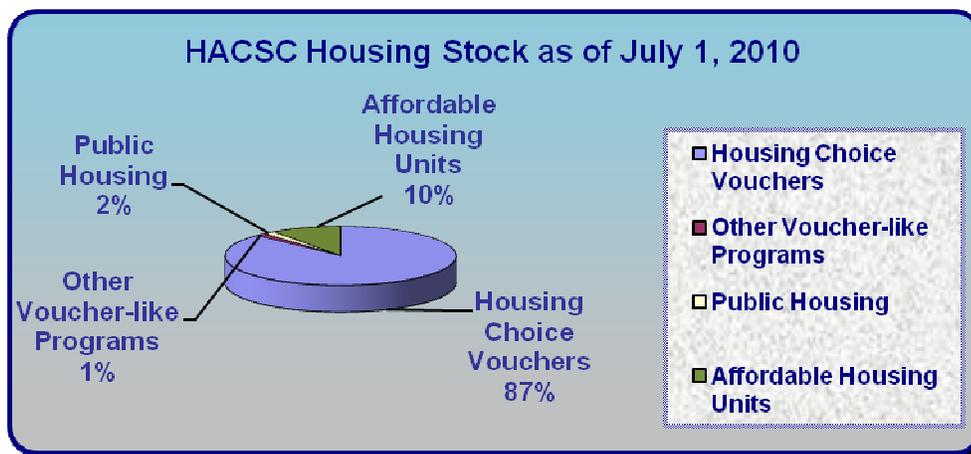
In the area of expanding housing choices for low-income families, HACSC's objectives include:

- Leveraging the power of MTW's funding flexibility model to strengthen HACSC's already proven record of success in producing high-quality housing for low-income populations;
- Continuing to capitalize on opportunities to improve the vitality of HACSC-owned developments as well as increase the supply of affordable housing through future developments; and
- Taking affirmative measures to support and ensure equal housing opportunities for all families participating in HACSC programs.

**II. GENERAL HACSC OPERATING INFORMATION**

This section provides information about the types and number of HACSC’s housing units and vouchers, the anticipated number of units leased in FY2011, and any changes anticipated for the Agency’s waiting lists.

HACSC provides over 17,000 low-income families with rental assistance through the Housing Choice Voucher, Mainstream, Veterans Affairs Supportive Housing (VASH), Moderate Rehabilitation, and Shelter Plus Care (S+C) programs and has 335 public housing units in its portfolio. The agency also manages over 2,500 units of affordable housing throughout Santa Clara County.



**A. HOUSING STOCK INFORMATION**

**Public Housing Units and Planned Capital Expenditures:**

Number of Public Housing Units: 335

HACSC will have 335 public housing units in its housing stock at the beginning of FY2011. HACSC was granted HUD approval on September 26, 2007 for the disposition of its public housing properties. Three of HACSC’s family properties, representing 20 units, are being renovated using ARRA grant and Capital grant funds and should complete the disposition process by the end of FY2010. HACSC anticipates that all public housing capital grant and/or ARRA funds will be expended before the end of FY2010. The remaining public housing properties will transfer ownership and convert to Project Based Vouchers (PBV) in early FY2011.

The timing of the completion of disposition for each public housing property is estimated as indicated in Table 1, below.

**Table 1: Public Housing Units in Disposition Process**

<b>Public Housing Development</b>	<b>Type</b>	<b># of Units</b>	<b>Anticipated Disposition &amp; PBV</b>
Cypress Gardens	Senior	125	FY2011
Lenzen Gardens	Senior	94	FY2011
Sunset Gardens	Senior	75	FY2011
Julian Gardens	Family	9	FY2011
Lucretia Gardens	Family	16	FY2011
Miramar	Family	16	FY2011
Eklund I	Family	10	FY2010
Eklund II	Family	6	FY2010
Deborah	Family	4	FY2010
	<b>TOTAL</b>	<b>355*</b> (*8 of which are manager units)	

**MTW Housing Choice Voucher Units Authorized: 16,428**

- 15,665 Tenant-Based Housing Choice Vouchers
- 763 Project Based Voucher units

(Note that the total of 16,428 authorized MTW vouchers represents a correction to the figure of 16,508 listed in the FY2010 Plan. The incorrect figure included a double-counting of a small portion of special purpose vouchers.)

**Non-MTW Housing Choice Voucher Units Authorized: 548**

- 285 Enhanced vouchers
- 53 Mainstream vouchers
- 210 VASH vouchers

**Other HUD-funded Housing Units Authorized: 269**

- 95 Moderate Rehabilitation units
- 174 Shelter Plus Care units

**Number of HCV Units to be Project-Based during FY2011:**

HACSC expects to project-base 219 units during FY2010, including a new construction senior housing project of 199 units (Corde Terra Apartments) and 20 former public housing units that are on schedule to transition to non-public housing before the end of the current fiscal year (see Table 1, above). HACSC is in the process of project-basing 472 of its tenant-based vouchers during FY2011. 145 units are new construction projects awarded through a Request

for Proposals competitive selection process in 2007. These projects are each currently in an Agreement to Enter into Housing Assistance Payments Contract (AHAP) and are anticipated for completion sometime in 2012. The remaining 327 units are public housing projects transitioning to non-public housing project-based units early in FY2011.

**Table 2: List of properties expected to be project-based in FY2011**

<b>NAME AND LOCATION OF PROJECT</b>	<b># OF PBV UNITS</b>	<b>STATUS</b>
Sunnyvale Senior Housing Apartments (Sunnyvale)	120	Planned new construction senior project, in AHAP
Kings Crossing Apartments (San Jose)	25	Planned new construction project for homeless persons and families, in AHAP
Cypress Gardens (San Jose)	123	Senior public housing – disposition
Lenzen Gardens (San Jose)	92	Senior public housing – disposition
Sunset Gardens (Gilroy)	73	Senior public housing – disposition
Julian Gardens (San Jose)	9	Family public housing – disposition
Lucretia Gardens (San Jose)	15	Family public housing – disposition
Miramar (Santa Clara)	15	Family public housing – disposition
<b>TOTAL</b>	<b>472</b>	

**B. PLANNED LEASING INFORMATION**

HACSC plans to maintain 100% lease up of its 16,428 MTW vouchers and 548 non-MTW vouchers in FY2011. Because of higher than normal unit vacancy rates throughout the region, HACSC anticipates no difficulties in maintaining full lease-up of its vouchers. However, due to historically low voucher turnover rates in FY2010 that are predicted to continue in FY2011, the Agency anticipates over-leasing during FY2011. This step is necessary to meet the Agency’s multiple program commitments including vouchers for the chronically homeless, for project-basing HACSC-owned and other units, and for the thousands on the HCV waiting list. HACSC anticipates leasing approximately 300 vouchers over its 16,428 MTW voucher baseline and plans to fund this activity through its accumulated MTW reserve fund.

In preparation for the disposition of its remaining properties during the end of the current fiscal year and in early FY2011, HACSC has not been leasing its vacant public housing units. Approximately 252 current public housing residents plan to remain in place and transition to PBV leases when the properties transfer ownership.

**C. WAITING LIST INFORMATION**

With its MTW authority, HACSC maintains combined waiting lists between the Housing Authority of the County of Santa Clara (CA059) and the Housing Authority of the City of San

Jose (CA056). HACSC has six waiting lists: site-based waiting lists for its three senior public housing properties, one family public housing waiting list and waiting lists for its Housing Choice Voucher and Project Based Voucher programs.

In preparation for disposition of its public housing properties, HACSC has purged its public housing waiting lists. The updated waiting lists will be used to fill the vacancies that occur when these properties convert to PBV. Once the waiting lists are exhausted, vacancies at these sites will be filled from the PBV waiting list.

The agency does not anticipate any major changes in the number of families served from the Housing Choice Voucher and Project Based Voucher waiting lists compared to previous years. The waiting lists are currently closed and HACSC does not anticipate opening or making any changes to how it manages its waiting lists during FY2011.

### III. NON-MTW RELATED HACSC INFORMATION

HACSC continues to innovate in a number of areas that complement its MTW activities. These areas include:

- Continuing to administer 210 vouchers in the Veterans Affairs Supportive Housing (VASH) program, including vouchers for San Mateo and Santa Cruz counties.
- Completing HACSC's needs assessment of special needs populations in Santa Clara County. Based on the results of this assessment, the Agency will allocate Project Based Vouchers through a competitive selection process.
- Designating 200 vouchers for the chronically homeless in fiscal year 2011. This set-aside, which matches the set-aside in FY2010, will support HACSC's approved MTW activity (#2009-5) involving strengthening partnerships with community service providers and other local agencies to create a direct voucher referral program for chronically homeless families.
- Using funds awarded through the American Recovery and Reinvestment Act (ARRA) renovations at public housing sites prior to disposition.

#### IV. LONG-TERM MTW PLAN

HACSC seeks to use its MTW status to design and carry out a range of programs and activities that will increase housing opportunities for low-, very low-, and extremely low-income families. These activities include:

- preserving, modernizing, rehabilitating and reconfiguring HACSC- and affiliate-owned properties that are at risk of physical deterioration or obsolescence;
- planning for, financing and developing new affordable housing;
- operating, managing and maintaining affordable housing;
- providing supportive community services that are likely to achieve the purposes of families obtaining employment, increasing earned income, or achieving economic self sufficiency;
- designing programmatic changes that will link rent restructures with access to HACSC partnerships with job training, job development and placement agencies and other non-profits to incentivize non disabled and non elderly participants in finding new or higher-paying jobs (HACSC plans to implement these programs within the next two to three years);
- creating and providing tenant services to assist elderly and disabled participants with the support to live as independently as possible;
- partnering with for-profit and non-profit entities to achieve MTW goals;
- increasing the number of families receiving tenant-based rental assistance, including over-leasing in the HCV program as needed based on local rental market conditions; and
- continuing to design and implement innovative strategies to use funds in more cost-effective ways.

HACSC is working with HUD to secure the necessary regulatory and budgetary flexibility under MTW to enable HACSC to pursue these types of activities. By the end of FY2010, HACSC expects to have executed an amendment to its MTW Agreement with HUD that will give HACSC “broader use of funds authority.” This amendment will broaden HACSC’s MTW block grant authority and give it the ability to plan, propose and (subject to HUD approval) pursue activities that may be outside the normal regulatory scope of the Section 8 and Section 9 programs but that remain consistent with the statutory goals and requirements of the MTW demonstration. HACSC anticipates making full use of its expanded MTW flexibility to pursue a robust program of innovation.

## V. PROPOSED MTW ACTIVITIES (HUD Approval Requested)

This section describes the three new MTW activities that HACSC is proposing to implement in FY2011.

### Streamlined Approval Process for Exception Payment Standard for Reasonable Accommodation (Proposed Activity #2011 - 1)

#### DESCRIPTION OF MTW ACTIVITY

Part of HACSC's mission is to provide stable, quality affordable housing to low- and moderate-income persons regardless of disability. In this activity, HACSC proposes that it may approve, as a reasonable accommodation, an exception payment standard for an assisted individual when such accommodation is needed to provide an equal opportunity to secure housing. HACSC would be authorized under this activity to make the final determination whether to approve any documented and reasonable exception payment standard after all necessary documents have been obtained in accordance with PIH Notice 2008-13.

Currently, when a voucher holder locates a unit that has a reasonable rent and will meet the needs of a disabled family member but that exceeds HACSC's voucher payment standard, HACSC facilitates the review for a reasonable accommodation by gathering and documenting the need for an exception payment standard as outlined in PIH Notice 2008-13 and forwards the reasonable accommodation request to HUD. The additional turnaround time for HUD to review and respond to the reasonable accommodation request may jeopardize the tenant's securing of an accessible unit.

#### HOW THE ACTIVITY RELATES TO AT LEAST ONE OF THE STATUTORY OBJECTIVES

This activity increases housing choices for families with disabled family members because it removes the unpredictability of the HUD approval timeline from the exception payment standard process, thus improving responsiveness to the needs of disabled persons and avoiding the potential derailing of leasing a unit that meets their unique needs.

#### ANTICIPATED IMPACT OF THE ACTIVITY

This activity will allow HACSC to act quickly and definitively in working with an identified property owner to complete an exception payment standard review process and approve or disapprove the rent amount. With the ability to create an exception payment standard as a reasonable accommodation, HACSC would only forego the final step (HUD approval) of an otherwise unchanged documentation process as outlined in PIH Notice 2008-13.

## **PROPOSED BASELINES, BENCHMARKS and METRICS**

**Baseline:** Historically, the average HUD response time to approve or deny an exception payment standard as a reasonable accommodation is sixty-five (65) days.

**Benchmark:** A benchmark to review and respond to an exception payment standard request under this activity is estimated at ten (10) days after all necessary documents have been obtained.

**Metric:** Number of days to approve or deny an exception payment standard for reasonable accommodation.

**Data Collection:** Time study on average time it takes for HACSC to review and approve or deny an exception Payment Standard request (based on data collected from the agency's Reasonable Accommodation Log).

## **AUTHORIZATION FOR THE ACTIVITY**

This proposed activity is authorized in HACSC's Moving To Work Agreement, Attachment C, Paragraph D.2.a, and waives certain provisions of Section 8 (o) of the 1937 Act and 24 CFR 982.505(d) and CFR 982.503(c)(2)(ii), as necessary to implement HACSC's MTW Plan.

## **Simplify Requirements Regarding Third Party Inspections and Rent Services (Proposed Activity #2011 - 2)**

### **DESCRIPTION OF MTW ACTIVITY**

HACSC proposes that it may waive the regulatory requirement that a qualified independent agency designated to conduct housing quality standards (HQS) inspection and rent reasonableness services for HACSC-owned units utilizing project-based vouchers (PBV) and housing choice vouchers must be approved by HUD. This activity would also eliminate the need for the independent agency to furnish copies of each inspection report to the HUD field office.

HACSC is required to obtain HUD approval of a selected independent inspection and rent services entity before such services can be provided for HACSC-owned units. In addition, the independent agency must provide copies of Housing Quality Standards (HQS) inspection reports on PBV units to the HUD field office. These requirements are not cost-effective and can delay the housing of eligible families. Staff must prepare a written request for HUD approval of a third party agency, has no control over the amount of time the HUD field office will take to issue an approval, and cannot finalize housing assistance payments (HAP) contracts until HUD approval is received. Regular inspection and rent services must be halted for an indeterminate period until HUD approval is obtained.

In implementing this activity, HACSC will continue its current practice of training and using only certified inspectors and of monitoring and auditing the work of those third party agencies contracted to provide these inspection services, to ensure their compliance with HQS and related program requirements.

#### **HOW THE ACTIVITY RELATES TO AT LEAST ONE OF THE STATUTORY OBJECTIVES**

This activity addresses the statutory objective of reducing costs and achieving greater cost effectiveness in federal expenditures by avoiding unnecessary delays and expenses in the provision of essential HQS inspection and rent determination services.

#### **ANTICIPATED IMPACT OF THE ACTIVITY**

This activity will allow HACSC to expedite the selection of a new third-party inspection services provider when needed and to maintain a regular, uninterrupted schedule of ongoing inspection processes for HACSC-owned units. The activity also reduces expenses passed on to HACSC from the third-party agency associated with sending copies of inspection reports to HUD.

#### **PROPOSED BASELINES, BENCHMARKS and METRICS**

Baselines:

- Based on recent experience, the baseline for HUD approval of a qualified independent inspection agency is seven (7) days.
- The labor, postage and paper costs passed on to HACSC in FY2009 from the inspection agency to send copies of 223 inspection reports of HACSC-owned PBV units to HUD is \$649.

Benchmarks:

- Zero days for HUD approval of a qualified independent inspection agency (no HUD approval required).
- A \$649 reduction in costs to HACSC from the inspection agency not sending copies of inspection reports to HUD.

Metrics:

- Number of days to approve a qualified independent inspection agency.
- Dollar savings realized by HACSC from the inspection agency not sending copies of inspection reports to HUD.

#### **AUTHORIZATION FOR THE ACTIVITY**

This proposed activity is authorized in HACSC's Moving To Work Agreement, Attachment C, Paragraphs D.2.b, D.2.c, and D.5, and waives certain provisions of Section 8 (o) of the 1937

Act and 24 CFR 983.103(f)(2), 24 CFR 983.59 (b), and 24 CFR 982.352(b)(iv)(B) as necessary to implement HACSC's MTW Plan.

**VI. ONGOING MTW ACTIVITIES (HUD Approval Previously Granted)**

To date, HACSC has had 19 activities approved by HUD. Of these, six (6) were implemented in FY2009, eight (8) were implemented in FY2010, two (2) are anticipated for implementation in 2011, and three (3) were dropped as obsolete (and reported as such in the MTW FY2009 Annual Report). HACSC’s MTW activities thus far have focused primarily on administrative streamlining and increasing housing choices for program participants.

The table that follows lists the previously approved activities, indicates when they were approved, and briefly describes their implementation status as of June 2010. Detailed descriptions of these activities are found in the Annual Plan for the year in which they were proposed. The impacts of activities that were implemented in FY2009 are described in detail in HACSC’s FY2009 MTW Annual Report.

HACSC has not used outside evaluators to review the impact of its MTW activities, but may elect to do so in the future.

<b>Activity #</b>	<b>Activity Name</b>	<b>Implementation Status</b>
2009 - 1	Reduced Frequency of Tenant Reexaminations	Implemented in FY2009 and continuing.
2009 - 2	Simplification and Expediting of the Income Verification Process	Implemented in FY2009 and continuing.
2009 - 3	Reduced Frequency of Inspections	Implemented in FY2009 and continuing.
2009 - 4	Timeline to Correct Housing Quality Standards (HQS) Deficiencies	Fully implemented in FY2010 and continuing, including companion policy of allowing owner self-certification (non-MTW activity).
2009 - 5	Exploring New Housing Opportunities for the Chronically Homeless	Partially implemented in FY2009 and continuing. Significant progress made in building working partnerships with local service providers and city/county agencies regarding concrete ways to address chronic homelessness. Task force of the Santa Clara County Collaborative on Housing and Homeless Issues has resolved most concerns around design and implementation of a direct voucher referral program. Initial implementation of direct referral program anticipated for early in FY2011. HACSC will designate 200 vouchers for the chronically homeless in FY2011.

<b>Activity #</b>	<b>Activity Name</b>	<b>Implementation Status</b>
2009 – 8	30-Day Referral Process for Project-Based Vacancies	Pending implementation. Procedures are being developed to ensure fair housing compliance. Implementation anticipated for June 2010.
2009 - 9	Utilization of Low Income Housing Tax Credit (LIHTC) Tenant Income Certification (TIC) for Income and Asset Verification	Implemented in early FY2010 in the initial lease up of Corde Terra Apartments, a 199 unit senior complex entering its initial PBV HAP contract. Will be implemented for other tax credit PBV sites during initial lease up and at regular reexaminations once the procedure has been finalized and if the owner is in agreement to provide the TIC's.
2009 – 10	Selection of HACSC-owned Public Housing Projects for PBV without Competition	Implemented for Rincon Gardens, a former public housing senior project that was disposed of and entered a PBV HAP contract as existing housing in September, 2008. This activity will also be used in the disposition of HACSC's remaining public housing projects in early FY2011.
2009 - 11	Project-Base 100% of Units in Family Projects	Implementation anticipated for June 2010 and early FY2011 in conjunction with transfer of family housing sites to HACSC-affiliate ownership with project-based vouchers.
2009 - 13	Combined Waiting Lists for the County of Santa Clara and the City of San Jose	Implemented in FY2009 and continuing.
2009 – 14	Payment Standard Changes Between Regular Reexaminations	Implemented in March 2010 and continuing.
2010 – 1	Eliminating 100% Excluded Income from the Income Calculation Process	Implemented in March 2010 and continuing.
2010 - 2	Excluding Asset Income from Income Calculations for Families with Assets Under \$50,000	Implemented in March 2010 and continuing.
2010 - 3	Applying Current Increased Payment Standards at Interim Reexaminations	Implemented in March 2010 and continuing.

<b>Activity #</b>	<b>Activity Name</b>	<b>Implementation Status</b>
2010 – 4	Allocating Project-Based Vouchers to HACSC-owned Projects Without Competition	Pending implementation. To date there has not been a need to use this waiver. There are no plans to project-base any HACSC-owned properties (beyond those involved in the public housing disposition process – see Activity #2009-10) at this time.
2010 - 5	Assisting Over-Income Families Residing at HACSC-owned Project-Based Voucher Properties	Pending implementation. To date there has not been a need to use this waiver – no families have met this income threshold.

Note: Obsolete activities are not shown. These were approved as activities 6, 7 and 12 in FY2009; final reporting on these activities was provided in the FY2009 MTW Annual Report.

## VII. SOURCES AND USES OF FUNDING

### A. SOURCES AND USES OF MTW FUNDS

#### FY 2011 Planned Sources

	Public Housing	Section 8 - MTW	MTW Consolidated
Rental Revenue	1,060,000		1,060,000
Section 8 Subsidy		245,482,000	245,482,000
Operating Subsidy	924,000		924,000
Replacement Housing Factor	314,556		314,556
Other Revenue	18,000	120,000	138,000
HUD Non Operating Contributions			0
<b>Total Sources</b>	<b>2,316,556</b>	<b>245,602,000</b>	<b>247,918,556</b>

#### FY 2011 Planned Expenditures

	Public Housing	Section 8 - MTW	MTW Consolidated
PH Subsidy Transfer			0
Housing Assistance Payments		228,362,000	228,362,000
Tenant Services	14,000		14,000
Maintenance	845,000		845,000
Utilities	387,000		387,000
General (operational and administrative expenses)	1,292,556	15,240,000	16,532,556
Central Office Cost Allocations			0
Transfer to MTW Reserve		2,000,000	2,000,000
<b>Total</b>	<b>2,538,556</b>	<b>245,602,000</b>	<b>248,140,556</b>

**B. SOURCES AND USES OF STATE AND LOCAL FUNDS**

<b>FY 2011 Planned Sources</b>	<b>General Fund</b>	<b>Sec 8 Mod Rehab</b>	<b>State Migrant Worker</b>	<b>Shelter Plus Care</b>	<b>Other HUD Contract</b>	<b>Total</b>
Rental Revenue – HACSC Properties	55,000					55,000
Section 8 Subsidy – Mod Rehab		994,000				994,000
Non-HUD Grants – Migrant Worker			372,000			372,000
Other Revenue – Shelter Plus Care				8,331,000		8,331,000
<b>Total Sources</b>	<b>55,000</b>	<b>994,000</b>	<b>372,000</b>	<b>8,331,000</b>		<b>9,752,000</b>

<b>FY 2011 Planned Uses</b>	<b>General Fund</b>	<b>Sec 8 Mod Rehab</b>	<b>State Migrant Worker</b>	<b>Shelter Plus Care</b>	<b>Other HUD Contract</b>	<b>Total</b>
Housing Assistance Payments		797,000		7,961,000		8,758,000
Utilities			147,000			147,000
Maintenance			37,000			37,000
Administrative & Operational Expenses	55,000	197,000	188,000	370,000		810,000
<b>Total Sources</b>	<b>55,000</b>	<b>994,000</b>	<b>372,000</b>	<b>8,331,000</b>		<b>9,752,000</b>

**C. SOURCES AND USES OF COCC**

All Public Housing COCC net revenue will be used during FY2011 for low income housing and related operating expenses.

<b>FY2011 Sources and Uses of Central Office Cost Center</b>	
<b>Planned Sources</b>	
Property Management Fees	223,000
Miscellaneous Income	0
<b>Total Sources</b>	<b>223,000</b>
<b>Planned Uses</b>	
Administrative Expenses	220,000
Utilities	0
Operations & Maintenance	0
<b>Total Uses</b>	<b>220,000</b>
Operating Transfer Out	3,000
<b>Net Income/(Loss)</b>	<b>0</b>

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**D. ALLOCATION METHOD FOR CENTRAL OFFICE COSTS**

The Housing Authorities of the County of Santa Clara and the City of San Jose have elected to use an overhead allocation method that is consistent with the methodology of OMB Circular A-87 for the Housing Choice Voucher Program, while for PHCOCC the agencies are using the Operating Fund Rule for the Public Housing Program.

**E. USE OF SINGLE FUND FLEXIBILITY**

Funding flexibility for block grant MTW programs allows agencies to combine resources they previously could not combine in order to better use their funding streams to address local program, administrative and operational needs.

HACSC combines funding awarded by HUD—namely public housing operating subsidy, public housing capital funds, and Section 8 Housing Choice Voucher funds—into a single agency-wide funding source (“MTW Funds”) in accordance with authorizations described in Attachment C of HACSC’s MTW agreement. HACSC will use these funds to carry out the HCV and public housing programs and other eligible activity permissible in Section 8(s),[(d)(1)] of the 1937 Housing Act, and to meet the purposes of the MTW Demonstration program including those described in Section B.1.b of Attachment C of HACSC’s MTW agreement. By more efficiently allocating resources, HACSC can more successfully serve eligible low-income families and can strive to increase the number of families assisted over time.

**VIII. ADMINISTRATIVE**

**A. BOARD RESOLUTION ADOPTING THE 2011 ANNUAL MTW PLAN CERTIFICATION OF COMPLIANCE**

This resolution is provided in Appendix One.

**B. PLANNED OR ONGOING AGENCY-DIRECTED EVALUATIONS OF HACSC'S MTW DEMONSTRATION**

In its FY2009 MTW Annual Report, the first such report prepared since HACSC entered the demonstration, HACSC provided analyses of the impacts of the MTW activities that were fully implemented that year. In FY2011, HACSC will continue to refine its approach to data gathering and monitoring of MTW activities and their impacts on stated goals and objectives. HACSC's planned purchase and launch of new voucher program software will support this effort.

**Appendix One**

Board Resolution #10-03 approving the submission of the FY2011 Annual MTW Plan to HUD and certifying compliance with regulations.

**RESOLUTION NO. 10-03**

Approving the Moving to Work (MTW) Annual Plan for Fiscal Year 2011 (FY2011) and authorizing the Housing Authority of the County of Santa Clara (HACSC) and the Housing Authority of the City of San Jose (HACSJ) to submit the Plan to the U.S. Department of Housing and Urban Development (HUD).

**PASSED AND ADOPTED:**

This 13<sup>th</sup> day of April, 2010, at the regular meeting of the Board of Commissioners of the Housing Authority of the County of Santa Clara held at 505 West Julian Street, City of San Jose, County of Santa Clara and State of California, with the following roll call vote:

**AYES:** Chair Anderson, Vice chair Espinoza - Howard, Commissioners Adams, Guardino, ~~Escampos~~ and Hayden  
**NAYES:** none

**ABSTAIN:** none

**ABSENT:** none



William Anderson, Chair  
Board of Commissioners

ATTEST:

By:   
Its: Secretary, Board of Commissioners

Attachment: HUD Forms 50900 (Certifications of Compliance with Regulations: Board Resolution to Accompany the Annual Moving to Work Plan) for the Housing Authority of the County of Santa Clara (CA059) and the Housing Authority of the City of San Jose (CA056)

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 Public Housing Agency (PHA) listed below, as its Chairman or other PHA official if there is no Board of Commissioners, I approve the submission of the Annual Moving to Work Plan for the PHA fiscal year beginning July 1, 2010, 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 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 PHA conducted a public hearing to discuss the Plan and invited public comment;
2. The Agency took into consideration public and resident comment before approval of the Plan by the Board of Commissioners in order to incorporate any public comments into the Annual MTW Plan;
3. The 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;
4. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and maintain records reflecting these analyses and actions;
5. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975;
6. The 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;
7. The 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;
8. The PHA will comply with requirements with regard to a drug free workplace required by 24 CFR Part 24, Subpart F;
9. The 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;
10. The 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;
11. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105( a);
12. The PHA will provide HUD or the responsible entity any documentation that the Department needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58;



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 Public Housing Agency (PHA) listed below, as its Chairman or other PHA official if there is no Board of Commissioners, I approve the submission of the Annual Moving to Work Plan for the PHA fiscal year beginning July 1, 2010, 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 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 PHA conducted a public hearing to discuss the Plan and invited public comment;
2. The Agency took into consideration public and resident comment before approval of the Plan by the Board of Commissioners in order to incorporate any public comments into the Annual MTW Plan;
3. The 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;
4. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and maintain records reflecting these analyses and actions;
5. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975;
6. The 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;
7. The 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;
8. The PHA will comply with requirements with regard to a drug free workplace required by 24 CFR Part 24, Subpart F;
9. The 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;
10. The 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;
11. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105( a);
12. The PHA will provide HUD or the responsible entity any documentation that the Department needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58;

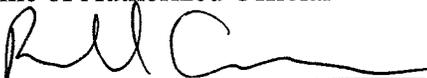
13. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act;
14. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements;
15. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act and 24 CFR Part 35;
16. The 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 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.);
17. The 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; and
18. 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 PHA in its Plan and will continue to be made available at least at the primary business office of the PHA.

Housing Authority of the City of San Jose  
PHA Name

CA056  
PHA 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)

Bill Anderson  
Name of Authorized Official

  
Signature

Chair, HACSC Board of Commissioners  
Title

April 13, 2010  
Date

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## Appendix Two

This appendix documents the public review process and provides summaries and comments on the input received related to the activities described in the draft MTW Annual Plan for fiscal year 2011.

### A. Public Notices

HACSC made the draft FY2011 MTW Annual Plan available to the public for review and comment in its main office and online from February 23 to March 25, 2010. One-page summaries of the Plan were available in English, Spanish and Vietnamese.

Public notices were published in three local area newspapers: the San Jose Mercury News, El Observador, and Vietnam Daily News. The notices gave directions on how to submit comments on the proposed MTW Plan during the 30-day review period and provided information on the Public Hearing held March 25, 2010. (See Exhibits 1-3)

### B. Community Stakeholder Meetings

HACSC scheduled a meeting on the draft FY2011 MTW Plan for several key community stakeholders. Ten local agencies were invited and representatives from four of those agencies attended the meeting at the Housing Authority main office on February 17, 2010. There were no comments on the proposed activities for FY2011. Several of the representatives commented favorably on HACSC's plan to designate another 200 vouchers for the chronically homeless and to issue an RFP for a new allocation of Project Based Vouchers for special needs populations as outlined in Section III of the Plan.

HACSC also held a conference call to review the Plan with legal and housing advocacy groups on February 18, 2010. Comments received during the conference call were consolidated by the groups into a joint written statement (see Section D.2 of this Appendix).

### C. Public Hearing

The public hearing regarding the Plan was held on Thursday, March 25, 2010 at 3:00 p.m. The hearing facilitator provided a short introduction about the draft MTW Plan, and then audience members were provided the opportunity to speak regarding the Plan.

Six persons attended the hearing and four chose to speak. The hearing was recorded and the speakers' key points are summarized below:

- A speaker from Senior Housing Solutions, a community agency that provides the low-income elderly with safe, affordable housing, supports the draft Plan as written and particularly supports the allocation of Project Based Vouchers for special needs populations, specifically for senior citizens.

- A speaker from the Mental Health Advocacy Project of the Law Foundation of Silicon Valley supports the activity that streamlines the approval process for exception payment standards as a reasonable accommodation, and asked that HACSC streamline the reasonable accommodation process overall to avoid unnecessary delays.
- A speaker from Silicon Valley Independent Living Center, a non-profit agency that serves persons with disabilities, asked for an annual set-aside of 200 vouchers for persons with disabilities and supports the allocation of Project Based Vouchers for special needs populations.
- A speaker from Bay Area Legal Aid supports the streamlining of the approval process for exception payment standards as a reasonable accommodation, and asked for an MTW activity related to assisting tenants in foreclosed properties.

#### **D. Correspondence Received on MTW Plan**

HACSC received two letters during the public review period for the draft 2011 MTW Annual Plan. Included below are summarized comments from the letters.

1. Letter dated March 25, 2010, from Senior Housing Solutions, an agency that provides the low-income elderly with affordable housing: The writer supports HACSC's long-term vision as an MTW agency, particularly supports HACSC's plan to allocate PBV's through a competitive selection process in FY2011, and asked that such an allocation be made annually.
2. Letter dated March 24, 2010, representing a joint statement from Bay Area Legal Aid, National Housing Law Project and Mental Health Advocacy Project: With regard to proposed Activity #1—Streamlined Approval Process for Exception Payment Standard for Reasonable Accommodation—the writers had no opposition to this activity and encouraged HACSC to promote activities that will further facilitate participants' ability to request and receive reasonable accommodations in a timely manner. With regard to proposed Activity #2—Simplify Requirements Regarding Third Party Inspections and Rent Services—the writers stated that they had no comment on this proposed activity because there are a limited number of HACSC-owned units.

Appendix Three

Moving to Work Agreements between the Housing Authority of the County of Santa Clara and the U.S. Department of Housing and Urban Development and the Housing Authority of the City of San José and the U.S. Department of Housing and Urban Development

### Moving to Work Agreement

This Moving to Work Demonstration Agreement (Agreement) is entered into on this 26<sup>th</sup> day of FEB 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 Santa Clara** (Agency). The term of this Agreement shall begin on the Date of Execution by HUD and shall continue until the end of the Agency's 2018 Fiscal Year, subject to meeting the evaluation criteria described in Section IV, unless such term is otherwise extended by HUD; and

WHEREAS, Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) (1996 Appropriations Act) establishes the statutory framework known as the Public Housing/Section 8 Moving to Work (MTW) demonstration program; and

WHEREAS, Section 204(a) of the 1996 Appropriations Act provides that public housing agencies that administer Section 8 and public housing (Agencies) and the Secretary of HUD (Secretary) shall have the flexibility to design and test various approaches for providing and administering housing assistance that: 1) reduce cost and achieve greater cost effectiveness in Federal expenditures; 2) give incentives to families with children whose heads of household are either working, seeking work, or are participating in job training, educational or other programs that assist in obtaining employment and becoming economically self-sufficient; and 3) increase housing choices for low-income families (the three statutory objectives); and

WHEREAS, pursuant to Section 204(a) of the 1996 Appropriations Act, HUD may permit Agencies to combine funds appropriated under sections 8 and 9 of the 1937 Act, and may exempt Agencies from provisions of the 1937 Act and implementing regulations thereunder pertaining to Public and Indian Housing and section 8 voucher assistance; and

WHEREAS, pursuant to Section 230 of H.R. 2764, the Consolidated Appropriations Act, 2008, the Secretary of Housing and Urban Development shall increase, pursuant to this section, the number of Moving-to-Work agencies authorized under section 204, title II, of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321-281) by making individually the Alaska Housing Finance Corporation and the housing authorities of the counties of San Bernardino and Santa Clara and the city of San Jose, California, a Moving-to-Work Agency under such section 204; and

WHEREAS, the Secretary determined that the Agency satisfies the Secretary's selection criteria and selected the Agency to participate in MTW; and

WHEREAS, the parties have previously entered into one or more Annual Contributions Contracts (ACCs) setting forth the terms and conditions under which the Agency participates in the public housing and/or Section 8 Housing Choice Voucher programs administered by HUD; and

WHEREAS, the parties agree to execute this Agreement; and

WHEREAS, it is a goal of the MTW demonstration to design and test innovative methods of providing housing and delivering services to low-income families in an efficient and cost effective manner, and HUD and the Agency agree to fully cooperate with each other in order to make the demonstration a success;

NOW, THEREFORE, in reliance upon and in consideration of the mutual representations and obligations hereunder, the parties do agree as follows:

## **I. Statutory Authorizations**

- A. This Agreement waives certain provisions of the United States Housing Act of 1937, as amended (1937 Act), and HUD's implementing requirements and regulations thereunder, as are set forth in the Statement of Authorizations (Attachment C), and the Legacy and Community-Specific Authorizations (Attachment D) only to the extent they are necessary to implement the Agency's Annual MTW Plan. Except as noted in Section I.B. below, this Agreement supersedes the terms and conditions of one or more ACCs between the Agency and HUD, to the extent necessary for the Agency to implement its MTW demonstration initiatives as laid out in the Agency's Annual MTW Plan, as approved by HUD.
- B. Notwithstanding the preceding authority waiving certain provisions of the 1937 Act as necessary to implement the Agency's Annual MTW Plan, the following provisions of the 1937 Act, as otherwise applicable, shall continue to apply to the Agency and/or assistance received pursuant to the 1937 Act:
  1. The terms "low-income families" and "very low-income families" shall continue to be defined by reference to Section 3(b)(2) of the 1937 Act (42 U.S.C. § 1437a(b)(2));
  2. Section 12 of the 1937 Act (42 U.S.C. § 1437j), as amended, shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance; and
  3. Section 18 of the 1937 Act (42 U.S.C. § 1437p, as amended by Section 1002(d) of Public Law 104-19, Section 201(b)(1) of Public Law 104-134, and Section 201(b) of Public Law 104-202), governing demolition and disposition, shall continue to apply to public housing notwithstanding any use of the housing under MTW.
- C. This Agreement only waives certain provisions of the 1937 Act and its implementing regulations. Other federal, state and local requirements applicable to public housing shall continue to apply notwithstanding any term contained in this Agreement or any Authorization granted thereunder. Accordingly, if any requirement applicable to public housing, outside of the 1937 Act, contains a provision that conflicts or is inconsistent with any authorization granted in this Agreement, the MTW Agency remains subject to the terms of that requirement. Such requirements include, but are not limited to, the following: 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 (including regulations promulgated by HUD thereunder in 24 C.F.R. part 85).

- D. The MTW Agency is authorized to conduct activities in accordance with the Statement of Authorizations (Attachment C) and in accordance with the Legacy and Community-Specific Authorizations (Attachment D), as applicable. In the event of a conflict between Attachment C and Attachment D, the authorizations in Attachment D will supersede those in Attachment C.
- E. Notwithstanding any provision set forth in this MTW Agreement, including without limitations, the term of years and all extensions, renewals and options, and the terms set forth herein otherwise, any federal law that amends, modifies, or changes the aforementioned term of years and/or other terms of this Agreement shall supersede this Restated Agreement such that the provisions of the law shall apply as set forth in the law.

## **II. Requirements and Covenants**

- A. The amount of assistance received under sections 8 or 9 of the 1937 Act by an Agency participating in the demonstration shall not be diminished by the Agency's participation in the MTW demonstration.
- B. The Agency agrees that any HUD assistance that the Agency is authorized to use under the MTW demonstration shall be used in accordance with the Agency's Annual MTW Plans, as may be applicable. The Agency hereby certifies that the Agency's governing board has approved this Agreement, and each Annual MTW Plan issued prior to the date hereof, as applicable, and that a copy of each such board approval has been provided to HUD.
- C. The Agency shall hold at least one public hearing per Annual MTW submission, and make the Annual MTW Plan available for public comment for at least thirty (30) days. The Agency agrees to take into account public comments on the program design, including comments from current tenants/participants, to the extent such comments were provided.
- D. The Agency shall: (i) ensure that at least 75 percent of the families assisted are very low-income families, as defined in section 3(b)(2) of the 1937 Act, (ii) assist substantially the same total number of eligible low-income families under MTW, as would have been served absent the demonstration, and (iii) 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.
- E. When providing public housing, the Agency will ensure that it is safe, decent, sanitary, and in good repair, according to an inspection protocol established or approved by the Secretary. This in no way precludes the Agency from modifying its own inspection

protocol as authorized in Attachments C and/or D as long as such protocol meets the housing quality standards established or approved by the Secretary.<sup>1</sup>

- F. The Agency agrees to keep project level budgeting and accounting, report financial statements in the Financial Data Schedule (FDS)<sup>2</sup>, and abide by project level management reviews and fees. The Agency will conform to OMB Circular A-87 and the HUD definition of reasonable fees as defined in 24 CFR part 990, and HUD's Financial Management Guidebook 7475.1 and Supplement, as they may be amended.
- G. HUD will not score the Agency under HUD's Public Housing Assessment System (PHAS) or HUD's Section Eight Management Assessment Program (SEMAP), or their successor systems, unless the Agency elects to be scored. If the Agency elects to be scored, the agency will continue to be scored for the duration of the demonstration.
- H. The Agency agrees to cooperate fully with HUD and its contractors in the monitoring and evaluation of the MTW demonstration, to keep records, and to submit reports and other information to HUD as described in the Agreement.
- I. The Agency shall comply with the requirements of the National Environmental Policy Act (NEPA) and other related federal laws and authorities identified in 24 C.F.R. Part 50 or Part 58, as applicable.
- J. The Agency will comply with all applicable nondiscrimination and equal opportunity requirements set forth in 24 C.F.R. § 5.105(a), and will administer its programs and activities in a manner affirmatively to further fair housing. In particular, the Agency must make reasonable accommodations needed by applicants and residents and must make units accessible in accordance with the Needs Assessment and Transition Plan as required under Section 504 of the Rehabilitation Act of 1973 and its implementing regulations.
- K. The Agency will comply with the terms of any applicable court orders or Voluntary Compliance Agreements that are in existence or may come into existence during the term of the Agreement. The Agency further agrees that it will cooperate fully with any investigation by the HUD Office of Inspector General or any other investigative and law enforcement agencies of the U.S. Government.
- L. Unless otherwise provided herein, this Agreement does not apply to Section 8 assistance that is required:
  - 1. To meet existing contractual obligations of the Agency to a third party (such as Housing Assistance Payment contracts with owners under the Agency's Section 8 Housing Choice Voucher program);
  - 2. For payments to other public housing authorities under Section 8 portability billing procedures; or

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<sup>1</sup> Agencies are still subject to state and local building codes, and housing codes, and state and local public housing law on inspections.

<sup>2</sup> The Agency agrees to comply with FDS submission requirements, including the requirement to submit project level financial data in the FDS.

3. To meet particular purposes for which HUD has expressly committed the assistance to the Agency.

The aforementioned covenants made by the Agency are not exclusive, as the Agency must also comply with all requirements applicable to public housing other than both those provisions of the 1937 Act, as amended from time to time, and its implementing regulations specifically waived by the Authorizations contained in this Agreement.

### **III. Rent Reform Initiatives**

The Agency shall establish a reasonable rent policy that is designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration. In developing its rent policy, the Agency must adopt a policy for addressing hardship cases. To meet the Department's purposes of evaluating the MTW demonstration, Agencies may randomly assign new participants into the MTW group, which will provide an alternate program/rent structure, and into a control group, which will continue to operate under the 1937 Act requirements, and collect useful participant data at the point of random assignment.

### **IV. Evaluation**

- A. HUD will consider the following criteria when evaluating whether this Agency shall continue in the MTW Demonstration:
  1. The Agency is in compliance with this Agreement.
  2. The Annual MTW Plans and Reports have been satisfactorily completed and submitted in a timely manner, consistent with this Agreement; and
  3. The Agency has demonstrated, through the Annual MTW Plan and Report, that it has used its MTW designation (i.e., engaged in MTW Activities), as set forth in Section 204 of the 1996 Appropriations Act.
- B. If, after the evaluation during FY 2011 and FY 2014, HUD determines that the Agency fails to meet the above criteria, HUD can terminate this Agreement.

### **V. Amendments and Continuation of Activities**

- A. Amendment of this Agreement. This Agreement may be further amended upon mutual agreement of the Agency and HUD. Proposed amendments by the Agency to the Agreement shall be submitted in writing to HUD's Office of Public and Indian Housing, or its successor, only after the Agency has conducted a public hearing, considered comments from the hearing in drafting the proposed amendment, and obtained an approval from the Agency's Board of Commissioners or Directors, as applicable. HUD will respond to the Agency in writing to either approve and execute or disapprove the amendment request. The Statement of Authorizations (Attachment C) may be unilaterally amended by HUD only in order to add to the existing authorizations. The Legacy and Community-Specific Authorizations (Attachment D) may be amended upon mutual agreement between HUD and the Agency. In the event of a conflict between Attachment C and Attachment D, the authorizations in Attachment D supersede the authorizations in Attachment C.

- B. Amendment of the Annual MTW Plan. Amendments to the Annual MTW Plan only need to be made if the proposed MTW activity falls outside the scope of the HUD-approved Annual MTW Plan. An MTW activity is defined as an activity that an Agency participating in the MTW demonstration is authorized to undertake only by means of invoking an authorization included in Attachment C or Attachment D of this Agreement, as opposed to an activity that a non-MTW agency could undertake pursuant to the conventional public housing and Section 8 Housing Choice Voucher programs' statutory and regulatory requirements. Proposed amendments by the Agency to the Annual MTW Plan shall be submitted in writing to HUD's Office of Public and Indian Housing, or its successor, only after the Agency has conducted a public hearing, considered comments from the hearing in drafting the proposed amendment, and obtained an approval from the Agency's Board of Commissioners or Directors, as applicable. HUD will respond in writing to either approve or disapprove the amendment request.

The letter requesting any amendment to the Annual MTW Plan should include the following information in relation to the proposed MTW Activity:

1. Description of the proposed activity;
2. Description of how the activity relates to at least one of the three statutory objectives;
3. Identification and discussion of the anticipated impact of the proposed MTW activity on the stated objective;
4. Description of the baselines and benchmarks that the Agency will use to measure the performance and progress of the MTW activities;
5. Description of the data collection process and metrics the Agency will use to measure how this activity will achieve one or more of the MTW statutory objectives; and
6. The specific provision of the 1937 Act or regulation that is waived under MTW that authorized the Agency to make this change, when applicable.

C. Continuation of Activities.

1. Not later than one year prior to expiration of this Agreement, the Agency shall submit a transition plan to HUD. It is the Agency's responsibility to plan in such a manner that it will be able to end all features of the MTW Plan upon expiration of the Agreement, as HUD cannot guarantee that it will be able to extend any features of the Plan. The transition plan shall describe plans for phasing out of such authorizations/features. The plan shall also include any proposals of authorizations/features of the Agreement that the Agency wishes to continue beyond the expiration of the Agreement. The Agency shall specify the proposed duration, and shall provide justification for extension of such authorization/features. HUD will respond to the Agency in writing in a timely manner. Only authorizations/features specifically approved for extension shall continue beyond the term of the MTW Agreement. The extended features shall

remain in effect only for the duration and in the manner specified in the approved transition plan.

2. HUD will review and respond to timely-submitted transition plans within 75 days or they are deemed approved. To the extent that HUD has questions or feedback within this 75-day period, HUD will transmit such information within a sufficient time period for the Agency to respond and for HUD to approve a transition plan within 75 days of submission of the plan.

## VI. Funding

- A. Funding Methodology. During the term of the MTW demonstration, HUD will provide the Agency with public housing operating subsidies, and modernization or capital funds (including development and replacement housing factor funds), and with tenant-based Section 8 assistance, as provided in Attachment A. If the Agency's Attachment A does not describe the funding methodology for any of these funding streams, the Agency's funding will be calculated according to standard HUD calculations of Agency benefits.
- B. Funding Disbursements. The Agency will receive its public housing operating subsidy and Section 8 tenant-based funding in accordance with the following calculation and disbursement requirements:
  1. Operating Fund subsidies
    - a. HUD shall calculate the allocation of Operating Fund subsidies to the Agency in accordance with Attachment A.
    - b. The Agency may use these funds for any eligible activity permissible under Section 9(e)(1) of the 1937 Act or, if the Agency proposes to use the funding as part of a block grant in its Annual MTW Plan, it may use these funds for any eligible activity permissible under Section 8(o), 9(d)(1) and 9(e)(1) consistent with this MTW Agreement.
  2. Capital Funds and Other Grants
    - a. HUD shall calculate the allocation of Capital Fund grants (including replacement housing factor fund grants) to the Agency in accordance with Attachment A. Capital Funds will be disbursed in accordance with standard HUD procedures for the disbursement of public housing Capital Fund Grants.
      - (i) In requisitioning grant funds, the Agency will not be required to provide line item detail, but will request the funds using a single MTW line item; provided however, that the Agency may not accelerate draw downs of funds in order to fund reserves.

- (ii) The Agency may use these funds for any eligible activity permissible under Section 9(d)(1) of the 1937 Act, or if the Agency proposes to use the funding as part of a block grant in its Annual MTW Plan, it may use these funds for any eligible activity permissible under Section 8(o), 9(d)(1) and 9(e)(1) consistent with this MTW Agreement.
  - (iii) The Agency is subject to the requirements of Section 9(j) of the 1937 Act with respect to its Capital Fund Grants.
- b. Section 8 Tenant-Based Assistance
  - (i) HUD shall calculate the allocation of Section 8 Housing Choice Voucher funding to the Agency in accordance with Attachment A.
  - (ii) The Agency may use tenant-based Section 8 funds included in the MTW block grant for any eligible activity permissible under Section 8(o) of the 1937 Act or, if the Agency proposes to use the funding as part of a block grant in its Annual MTW Plan, it may use the funds for any eligible activity permissible under Section 8(o), 9(d)(1) and 9(e)(1) consistent with this MTW Agreement.
- c. The Agency may submit for HUD consideration and approval alternative schedules for disbursement of public housing operating subsidy and Section 8 tenant-based funding to reduce the number of transactions and to address the time lag between making Housing Assistance Payments (HAP) for the large number of Section 8 participants from other jurisdictions (portables) and reimbursement by those jurisdictions. An Agency's request for consideration and approval of an alternative schedule for disbursement shall be subject to certain administrative limitations, such as only one request will be allowed per year.

## **VII. Administrative Responsibilities**

### **A. Annual MTW Planning and Reporting.**

#### **1. Annual MTW Plans**

- a. If the Agency has ten percent or more of its housing stock in MTW, the Agency will prepare and submit an Annual MTW Plan, in accordance with Attachment B, or equivalent HUD form as approved by OMB, in lieu of the Five (5) year and Annual Plans required by Section 5A of the 1937 Act.
- b. If the Agency has less than ten percent of its housing stock in MTW, the Agency will continue to complete the Five-Year and Annual Plans required by Section 5A of the 1937 Act. The Agency will also complete a Supplemental Annual MTW Plan, based on Attachment B, or equivalent HUD form as approved by OMB. Only information not included in either

the Five-Year Plan or the Annual Plan will need to be included in the Supplemental Annual MTW Plan (herein also referred to as the Annual MTW Plan).

- c. Three (3) copies of the Annual MTW Plan shall be submitted to HUD: one copy will be provided to HUD Headquarters in hard-copy, one copy to HUD Headquarters in electronic format (i.e., PDF, or Word), and one copy to the Agency's local HUD Field Office.
- d. The Annual MTW Plan is due not later than seventy-five (75) days prior to the start of the Agency's fiscal year, unless otherwise approved by HUD, except in the first year of this Agreement the Agency may submit an amendment to its MTW Plan if it wants to implement initiatives prior to the due date of the subsequent MTW Plan.
- e. Attachment B of this Agreement, or equivalent HUD form as approved by OMB, provides a detailed description of the required elements of the Annual MTW Plan.
- f. The Annual MTW Plan will be submitted to HUD only after:
  - (i) The Agency has provided for citizen participation through public hearing and other appropriate means and is approved by the Board of Commissioners or Directors, as applicable, and
  - (ii) The Agency has taken into account public comments on the program design, including comments from current tenants/participants, to the extent such comments were provided. To document the foregoing, the Agency will submit with the Annual MTW Plan documentation that at least one public hearing was held, that the Plan was available for public comment for at least thirty (30) days, and that the Agency took no less than fifteen (15) days between the public hearing and the 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. The Agency will submit these documents to HUD in accordance with Attachment B, or equivalent HUD form as approved by OMB, and will keep these documents on file for HUD review.
- g. HUD shall notify the Agency in writing if HUD objects to any provisions or information therein. When the Agency submits its Annual MTW Plan seventy-five (75) days in advance of its fiscal year, HUD will respond to the Agency within seventy-five (75) days. If HUD does not respond to the Agency within seventy-five (75) days after an on-time receipt of the Agency's Annual MTW Plan, the Agency's Annual MTW Plan is approved and the Agency is authorized to implement that Plan. If HUD does not receive the Agency's Annual MTW Plan seventy-five (75) days before the beginning of the Agency's fiscal year, the Agency's Annual MTW Plan is

not approved until HUD responds. Reasons that HUD may object to a provision or information in the Annual MTW Plan include, but are not limited to, the following:

- (i) The information required in Attachment B, or equivalent HUD form as approved by OMB, is not provided or is deemed insufficient;
  - (ii) The Agency's planned MTW activities are not permissible under MTW Authority or are inconsistent with requirements outside the 1937 Act<sup>3</sup>;
  - (iii) The Agency's planned MTW activities do not have a clear connection to the statutory goal of the MTW demonstration, which is to provide Agencies with the flexibility to design and test various approaches for providing and administering housing assistance that: (a) reduce cost and achieves greater cost effectiveness in Federal expenditures; (b) give incentives to families with children whose heads of household are either working, seeking work, or are participating in job training, educational or other programs that assist in obtaining employment and becoming economically self-sufficient; and (c) increase housing choices for low-income families; or
  - (iv) There are other good cause factors, such as material misrepresentation, in the submission.
- h. Once HUD approves an MTW Activity, the activity shall remain approved as long as it is included in the Agency's Annual MTW Plan submissions subsequent to the initial approval of the MTW Activity. The approval shall remain in effect until such time as the Agency proposes to modify the activity, initiative, or program.

## 2. Annual MTW Reports

- a. The Agency will prepare Annual MTW Reports, which will compare the Agency's activities with its Annual MTW Plan. The Annual MTW Report will provide the information necessary for HUD to assess the Agency's activities, in both regular operations and in activities authorized by MTW.
- b. Three (3) copies of the Annual MTW Report shall be submitted to HUD: one copy will be provided to HUD Headquarters in hard-copy, one copy to HUD Headquarters in electronic format (i.e., PDF, or Word), and one copy to the Agency's local HUD Field Office.
- c. The Annual MTW Report will be submitted to HUD for its review annually, no later than ninety (90) days after the end of the Agency's fiscal year.

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<sup>3</sup> Even if HUD approves a MTW Plan that is inconsistent with an external requirement, such as a state law requirement, the Agency is still subject to the external requirement.

- d. Attachment B of this Agreement, or equivalent HUD form as approved by OMB, provides a detailed description of the required elements of the Annual MTW Report.
  - e. HUD shall notify the Agency in writing if HUD requires additional information or clarifications to the information provided in the Annual MTW Report.
  - f. All HUD forms and other reporting mechanisms required by this Agreement, including any required certifications, will, where appropriate, be included in either the Annual MTW Plan or the Annual MTW Report.
3. HUD reserves the right to request, and the Agency agrees to provide, any information required by law or required for sound administration of the public housing and Section 8 Housing Choice Voucher programs.

**B. Other Data Submission Requirements.**

1. The Agency will submit HUD-50058 data and/or HUD-50058 MTW (or their replacement forms) data to HUD's Public and Indian Housing Information Center (PIC) system, or its successor. (Note that the use of the HUD-50058 MTW form is restricted to the MTW agencies that have implemented MTW Activities that prevent use of the standard 50058 form.) These submissions will be in compliance with HUD's 50058 and/or 50058 MTW submission requirements for MTW public housing authorities. The Agency will maintain current building and unit information in the development module of the PIC Inventory Management System (IMS).
2. The Agency will provide basic data about the Agency (e.g., address, phone number, e-mail address, etc.) to HUD through the PIC/IMS system, or its successor system.
3. The Agency will complete an annual audit pursuant to the Office of Management and Budget (OMB) Circular A-133 (including the Compliance Supplement, as determined by the auditor to be relevant to MTW). The A-133 Audit must be submitted to HUD in accordance with HUD regulations; a separate copy of the most recently completed audit must be submitted to the Office of Public Housing Investments, or its successor Headquarters Office responsible for national oversight of the MTW demonstration.
4. The Agency will provide data to HUD through FDS, or its successor system, as required by the Public Housing Assessment System (PHAS) regulations and procedures as they may be amended.
5. The Agency will provide HUD with an electronic version of the Admissions and Continued Occupancy Policy and Administrative Plan upon HUD's request.
6. The Agency will provide HUD with a Performance and Evaluation Report for Capital Fund activities not included in the MTW Block Grant by including this

as a supplement to Attachment B, or equivalent HUD form as approved by OMB.

In addition to the reporting requirements listed above, the Agency is required to comply with any and all HUD reporting requirements that are not specifically waived by HUD.

- C. Annual MTW Monitoring Site Visit. HUD and/or its contractors will conduct at least one formal Site Visit to the Agency each year. The purpose of these visits will be to confirm reported Agency activities, to review the status and effectiveness of the Agency's MTW strategies, and to identify and resolve outstanding MTW related issues. The Agency shall give HUD and/or its contractors unimpeded access to all requested sources of information including access to files, access to units, and an opportunity to interview Agency staff and assisted residents.
- D. Single Point of Contact. HUD and the Agency shall each appoint a liaison as a single point of contact in implementing the Agreement.

### **VIII. Termination and Default**

- A. If the Agency violates this Agreement, HUD is authorized to take any corrective or remedial action described in this Article VIII for Agency default. HUD will give the Agency written notice of any default. The Agency will have the opportunity to cure such default within 30 days of the date of said notice, or to demonstrate within said time period, by submitting substantial evidence satisfactory to HUD, that it is not in default. If the default is not susceptible to being cured within said 30 day period, the Agency will demonstrate, to HUD's satisfaction, that the Agency has taken actions necessary to cure the default and that the default is curable within 90 days from the date of the default notice. Additionally, the Agency must covenant to prosecute such cure diligently and complete such cure within the 90 day period, unless HUD, in its sole judgment, determines that immediate action is necessary, and therefore has discretion to institute the remedies under Section VIII.C. of this Agreement.
- B. The following are reasons that HUD may declare the Agency in default of this Agreement:
  1. The Agency has not corrected HUD identified performance deficiencies within a reasonable period of time;
  2. Material misrepresentation in the application process that led to the MTW Agreement;
  3. Use of funds subject to this Agreement for a purpose other than as authorized by this Agreement;
  4. Material noncompliance with legislative, regulatory, or other requirements applicable to this Agreement;
  5. Material breach of this Agreement; and/or

6. Material misrepresentation in the Annual MTW Plan or Report submission by the Agency.
- C. If the Agency is in default, HUD may, among other remedies, undertake any one or all of the following remedies:
1. Suspend payment or reimbursement for any MTW activities affected;
  2. Suspend the Agency's authority to make draws or receive or use funds for affected activities;
  3. Change the method of payment to the Agency;
  4. Require additional reporting by the Agency on the deficient areas and the steps being taken to address the deficiencies;
  5. Require the Agency to prepare and follow a HUD-approved schedule of actions and/or a management plan for properly completing the activities approved under this Agreement;
  6. Suspend the MTW waiver authorization for the affected activities;
  7. Prohibit payment or reimbursement for any MTW Activities affected by the default;
  8. Require reimbursement by the Agency to HUD for amounts used in violation of this Agreement;
  9. Reduce/offset the Agency's future funding;
  10. Terminate this Agreement and require the Agency to transition out of MTW;
  11. Take any other corrective or remedial action legally available; and/or
  12. Implement administrative or judicial receivership of part or all of the Agency.
- D. The Agency may choose to terminate this Agreement at any time. Upon HUD's receipt of written notification from the Agency and a copy of a board resolution approving termination, termination will be effective. The Agency will then begin to transition out of MTW, and will work with HUD to establish an orderly phase-out of MTW activities, consistent with Section IV C of this Agreement.

This Agreement, including all Attachments, is effective upon execution, except as otherwise provided herein.

HOUSING AUTHORITY OF THE  
COUNTY OF SANTA CLARA

BY: 

ITS: EXECUTIVE DIRECTOR

Date: 02.26.08

UNITED STATES DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT

BY: 

ITS: Assistant Secretary

Date: 01.04.08

**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 SANTA CLARA**

Upon execution of 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 Santa Clara (Agency), HUD will provide the Agency with operating subsidy, capital funds, and Housing Choice Voucher Program assistance as described below.

**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. 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. Such requests will be made in accordance with current procedures governing amendments to the Annual Plan, except that no public consultation will be necessary prior to submission of the request.
3. All funds programmed for MTW purposes will be recorded and drawn from MTW designated line items on relevant HUD forms.

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

1. For purposes of the Housing Choice Voucher Program (HCVP) funding, the Initial Year is calendar year 2008 (January 1, 2008 through December 31, 2008).
2. For purposes of the Housing Choice Voucher program funding, the base period for calculating initial funding is federal fiscal year 2007 (October 1, 2006 through September 30, 2007).
3. Initial year (CY 2008) HCVP housing assistance payments (HAP) subsidy will be based on the greater of actual HAP expenses incurred by the Agency as reported in the Voucher

Management System (VMS) in the base period (FFY 2007) or what the Agency received in calendar year 2007. Initial year administrative fees will be based on what the Agency received in calendar year 2007.

4. Funding eligibility for the HCVP HAP in the Initial Year of this agreement will be equal to the amounts determined under the preceding paragraph, adjusted for new units not fully represented in those amounts, and adjusted by the Annual Adjustment Factor (AAF) and by the applicable proration factor. The Administrative Fee funding will be adjusted for new units and 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 December 31, 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. Funding for five-year mainstream vouchers, one-year mainstream vouchers and moderate rehabilitation vouchers, whether new allocations or renewals of existing vouchers, shall not be included in the MTW Block Grant.

11. The Agency will receive administrative fees to administer any incremental vouchers received, including Family Self Sufficiency funding, in accordance with laws and regulations in effect. Such fees will be calculated assuming all vouchers are in use.

12. The Agency's MTW funding for tenant based voucher assistance shall be based solely on dollars and not units.

**Attachment B**

**TO**  
**MOVING TO WORK AGREEMENT**  
**BETWEEN**  
**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**AND**  
**AGENCY**

**Elements for the Annual MTW Plan and Annual MTW Report**

All MTW Agencies will provide the following required elements in their Annual MTW Plans and Reports, consistent with the requirements of Section VII of the Agreement, and will follow the following order and format.

<u><b>Annual MTW Plan</b></u>	<u><b>Annual MTW Report</b></u>
<b>I. Introduction</b>	
A. Table of Contents, which includes all the required elements of the Annual MTW Plan; and	A. Table of Contents, which includes all the required elements of the Annual MTW Report; and
B. Overview of the Agency's MTW goals and objectives for the year, including new and ongoing MTW activities.	B. Overview of the Agency's ongoing MTW goals and objectives.

## II. General Housing Authority Operating Information

Please provide the following:

### A. Housing Stock Information

- Number of public housing units planned;
- General description of any planned significant capital expenditures by development;
- Description of any new public housing units to be added during the year by development (specifying bedroom size);
- Number of units to be removed from the inventory during the year by development specifying the justification for the removal;
- Number of Housing Choice Vouchers (HCV) units authorized;
- Number of HCV units to be project-based, including description of each separate project;
- General description of other housing planned to be managed by the Agency, specifying location, number of units, and type of non-public housing/non-HCV assistance (to include tax credit, state funded, project based Section 8, and market rate); and
- Description of other properties owned or managed by the Agency.

### B. Lease Up Information

- Anticipated number of public housing units planned to be leased;
- Anticipated number of HCV planned to be leased; and
- Description of anticipated issues relating to any potential difficulties in leasing units (HCV or public housing).

### C. Waiting List Information

- Description of anticipated changes in waiting lists (site-based, community-wide, HCV, merged);
- Description of anticipated changes in the number of families on the waiting list(s) and/or opening and closing of the waiting list(s); and
- Date the waiting list was last purged.

Please provide the following:

### A. Housing Stock Information

- Number of public housing units;
- Number of Housing Choice Vouchers utilized;
- General description of number and type of other housing managed by the Agency, specifying location, number of units and type of non-public housing/non-HCV assistance (to include tax credit, state funded, project based Section 8, and market rate); and
- Description of other properties owned or managed by the Agency.

### B. Lease Up Information

- Number of public housing units leased;
- Number of HCV under lease; and
- Description of issues relating to any difficulties in leasing units (HCV or public housing).

### C. Waiting List Information

- Description of waiting lists (site-based, community-wide, HCV, merged) and any changes that were made in the past fiscal year;
- Number of families on the waiting list(s), both at the beginning of the fiscal year and at the end of the fiscal year, and if the list(s) are open or closed; and
- Date the waiting list was last purged.

<u>Annual MTW Plan</u>	<u>Annual MTW Report</u>
<b>III. Long-term MTW Plan</b>	
Describe the Agency’s long-term vision for the direction of its MTW program, extending through the duration of the MTW Agreement.	Describe the Agency’s long-term vision for the direction of its MTW program, extending through the duration of the MTW Agreement.
<b>IV. Proposed MTW Activities: HUD approval requested</b> (provide the listed items below grouped by each MTW activity)	
<ul style="list-style-type: none"> <li>A. Describe each proposed MTW activity;</li> <li>B. Describe how each proposed activity relates to at least one of the three statutory objectives;</li> <li>C. Identify and discuss the anticipated impact of each proposed MTW activity on the stated objective;</li> <li>D. Describe the baselines and proposed benchmarks and metrics that the Agency will use to measure the performance and progress of the MTW activities;</li> <li>E. Describe the data collection process and the proposed metrics the Agency will use to measure how this activity will achieve one or more of the MTW statutory objectives;</li> <li>F. Cite the authorization(s) detailed in Attachment C or D of this Agreement that give the Agency the flexibility to conduct the activity, and include the specific citation(s) of the Act or regulation as identified in Attachment C or D of this Agreement that authorize the Agency to make the change; and</li> <li>G. Describe the hardship policy (for rent reform initiatives only).</li> </ul>	<p>(All proposed activities that are granted approval by HUD will be reported on in Section V as “ongoing activities.”)</p>

<u>Annual MTW Plan</u>	<u>Annual MTW Report</u>
<p><b>V. Ongoing MTW Activities: HUD approval previously granted</b>                      (provide the listed items below grouped by each MTW activity)</p>	
<p>A. Describe each ongoing MTW activity applicable for the coming year;</p> <p>B. Describe how each ongoing activity relates to at least one of the three statutory objectives;</p> <p>C. Identify and discuss the anticipated impact of each ongoing MTW activity on the stated objective, if in the first year of completing this revised Plan; or any anticipated changes in the impact (as applicable), if in subsequent years;</p> <p>D. Describe the baselines and benchmarks that the Agency will use to measure the performance and progress of the MTW activities, if in the first year of completing this revised Plan; or any changes in benchmarks (as applicable), if in subsequent years;</p> <p>E. Describe the data collection process and metrics the Agency will use to measure how this activity will achieve one or more of the MTW statutory objectives, if in the first year of completing this revised Plan; or any changes in data collection (as applicable), if in subsequent years;</p> <p>F. Cite the authorization(s) detailed in Attachment C or D of this Agreement that give the Agency the flexibility to conduct the activity, and include the specific citation(s) of the Act or regulation as identified in Attachment C or D of this Agreement that authorize the Agency to make the change; and</p> <p>G. Describe the hardship policy (for rent reform initiatives only).</p>	<p>A. Describe any activities that were proposed in the Plan, approved by HUD, but not implemented, and discuss why these were not pursued;</p> <p>B. Describe each ongoing and completed (within the FY) MTW activity;</p> <p>C. Describe how each ongoing activity relates to at least one of the three statutory objectives;</p> <p>D. Analyze the actual impact of each ongoing MTW activity on the stated objective;</p> <p>E. Evaluate the actual performance versus the target benchmark goals, the originally established baseline, and the previous year's performance;</p> <p>F. If benchmarks were not achieved or if the activity was determined ineffective provide a narrative explanation of the challenges, and, if possible, identify potential new strategies that might be more effective;</p> <p>G. Using the metrics proposed in the Plan, evaluate the effectiveness of the activity in achieving the statutory objectives it relates to; and</p> <p>H. Cite the specific provision(s) of the Act or regulation that is waived under MTW (as detailed in Attachment C or D of this Agreement) that authorized the Agency to make the change, and briefly describe if and how the waived section of the Act or regulation was necessary to achieve the benchmark.</p>

<u>Annual MTW Plan</u>	<u>Annual MTW Report</u>
<b>VI. Sources and Uses of Funding</b>	
<p>A. Provide Consolidated Budget Statement in the same format and level of detail as the unaudited financial statement;</p> <p>B. Planned sources and expenditures by development;</p> <p>C. Description of changes in sources and uses of MTW funding from previously-approved plan; and</p> <p>D. Description of how funding fungibility is planned to be used, if applicable.</p>	<p>A. Unaudited Financial Statement;</p> <p>B. Planned vs. actual financial information by development with a narrative discussion and explanation of the differences;</p> <p>C. Planned vs. actual for all capital activities presented in the Annual MTW Plan with a narrative discussion and explanation of differences;</p> <p>D. Explanation of how funding fungibility was used and narrative explanation of the difference, if applicable.</p>
<b>VII. Administrative</b>	
<p>The Agency will provide the following:</p> <p>A. Board Resolution adopting 50077-MTW, or equivalent form;</p> <p>B. Documentation that at least one public hearing was held, that the Plan was available for public comment for at least thirty (30) days, and documentation that the Agency took into consideration public and resident comment 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;</p> <p>C. Description of any planned or ongoing Agency-directed evaluations of the demonstration, if applicable;</p>	<p>The Agency will provide the following:</p> <p>A. Results of latest Agency-directed evaluations of the demonstration, as applicable;</p> <p>B. Performance and Evaluation Report for Capital Fund activities not included in the MTW Block Grant, as an attachment to the Report; and</p> <p>C. Description of progress on the correction or elimination of observed deficiencies cited in monitoring visits, physical inspections, submissions to REAC, or other oversight and monitoring mechanisms, if applicable.</p>

<b>VIII. Reporting Compliance with Statutory MTW Requirements</b>																																																											
<b><u>Annual MTW Plan</u></b>	If the Agency has been out of compliance with any of the required statutory MTW requirements listed in Section II(C) of the Agreement, as determined by HUD in its review of the previous fiscal year’s Annual MTW Report, the Agency will provide a narrative discussion and a plan as to how it will return to compliance. If the Agency is currently in compliance, no discussion or reporting is necessary in this section.																																																										
<b><u>Annual MTW Report</u></b>	<p>The Agency will provide the following:</p> <p>A. In order to demonstrate that the statutory objective of “assuring that at least 75 percent of the families assisted by the Agency are very low-income families” is being achieved, the Agency will provide information in the following format:</p> <p style="text-align: center;"><b>Initial Incomes of Families Assisted by MTW</b></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Fiscal Year:</th> <th>2008</th> <th>2009</th> <th>2010</th> <th>2011</th> <th>2012</th> <th>2013</th> <th>2014</th> <th>2015</th> <th>2016</th> <th>2017</th> <th>2018</th> </tr> </thead> <tbody> <tr> <td>Total number of newly admitted families assisted<sup>1</sup></td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> <tr> <td>Number of families with incomes below 50% of area median</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> <tr> <td>Percentage of families with incomes below 50% of area median</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </tbody> </table>											Fiscal Year:	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total number of newly admitted families assisted <sup>1</sup>												Number of families with incomes below 50% of area median												Percentage of families with incomes below 50% of area median											
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<sup>1</sup> “Total number of newly admitted families assisted” is defined as all families that have been admitted to federal housing assistance during the fiscal year in question. Therefore, this does not mean that all families assisted by the housing authority will be captured in this figure. Instead, the figure only captures the initial admittees’ income, just as they begin to receive housing assistance.

**VIII. Reporting Compliance with Statutory MTW Requirements, Continued**

**Annual  
MTW  
Report,  
cont.**

B. In order to demonstrate that the statutory objective of “continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined” is being achieved, the Agency will provide information in the following formats:

**Baseline for the Number of Eligible Low-Income Families to Be Served**

	<b>Number of families served when Agency entered MTW</b>	<b>Non-MTW adjustments to the number of families served<sup>2</sup></b>	<b>Baseline number of families to be served</b>	<b>Explanations for adjustments to the number of families served</b>
Number of public housing families served				
Number of tenant-based Section 8 families served				
Total number of families served				

**Number of Low-Income Families Served**

<b>Baseline number of families to be served (total number of families)<sup>3</sup></b>	
<b>Total number of families Served this Fiscal Year<sup>4</sup></b>	
<b>Numerical Difference<sup>5</sup></b>	
<b>Percentage Difference</b>	

**Justification for variations in excess of 10% below the baseline number of families to be served (total number of families):**

<sup>2</sup> “Non-MTW adjustments to the number of families served” are defined as factors that are outside the control of the Agency. Acceptable “non-MTW adjustments” include, but are not limited to, influences of the economy and of the housing market. If the Agency includes non-MTW adjustments, HUD expects the explanations of the factors to be thorough and to include information substantiating the numbers used.

<sup>3</sup> This number will be the same number in the chart above, at the cross-section of “total number of families served” and “baseline number of families served.”

<sup>4</sup> The methodology used to obtain this figure will be the same methodology used to determine the “Number of families served when Agency entered MTW” in the table immediately above.

<sup>5</sup> The Numerical Difference is considered “MTW adjustments to the number of families served.” This number will reflect adjustments to the number of families served that are directly due to decisions the Agency has made. HUD expects that in the course of the demonstration, Agencies will make decisions that may alter the number of families served.

**VIII. Reporting Compliance with Statutory MTW Requirements, Continued**

**Annual  
MTW  
Report,  
cont.**

C. In order to demonstrate that the statutory objective of “maintaining a comparable mix of families (by family size) are served, as would have been provided had the amounts not been used under the demonstration” is being achieved, the Agency will provide information in the following formats:

**Baseline for the Mix of Family Sizes to Be Served**

Family Size	Occupied number of Public Housing units by family size when Agency entered MTW	Utilized number of Section 8 vouchers by family size when Agency entered MTW	Non-MTW adjustments to the distribution of family sizes <sup>6</sup>	Baseline number of family sizes to be maintained	Baseline percentages of family sizes to be maintained
1 person					
2 people					
3 people					
4 people					
5 people					
6+ people					
Totals					100%

<b>Explanations for Baseline adjustments to the distribution of family sizes utilized</b>	
---	--

**Mix of Family Sizes Served**

	1 person	2 people	3 people	4 people	5 people	6+ people	Total
<b>Baseline percentages of family sizes to be maintained<sup>7</sup></b>							100%
<b>Number of families served by family size this Fiscal Year<sup>8</sup></b>							
<b>Percentages of families served by family size this Fiscal Year<sup>9</sup></b>							100%
<b>Percentage Difference</b>							

<b>Justification and explanation for family size variations of over 5% from the Baseline percentages:</b>

<sup>6</sup> “Non-MTW adjustments to the distribution of family sizes” are defined as factors that are outside the control of the Agency. Acceptable “non-MTW adjustments” include, but are not limited to, demographic changes in the community’s population. If the Agency includes non-MTW adjustments, HUD expects the explanations of the factors to be thorough and to include information substantiating the numbers used.

<sup>7</sup> These numbers in this row will be the same numbers in the chart above listed under the column “Baseline percentages of family sizes to be maintained.”

<sup>8</sup> The methodology used to obtain these figures will be the same methodology used to determine the “Occupied number of Public Housing units by family size when Agency entered MTW” and “Utilized number of Section 8 Vouchers by family size when Agency entered MTW” in the table immediately above.

<sup>9</sup> The “Percentages of families served by family size this fiscal year” will reflect adjustments to the mix of families served that are directly due to decisions the Agency has made. HUD expects that in the course of the demonstration, Agencies will make decisions that may alter the number of families served.

**ATTACHMENT C****STATEMENT OF AUTHORIZATIONS****TO  
MOVING TO WORK AGREEMENT  
BETWEEN  
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND  
AGENCY****A. General Conditions**

1. This Statement of Authorizations describes the activities that the Public Housing Authority (Agency) may carry out under the Moving to Work (MTW) Demonstration program, subject to the terms and conditions of the Moving to Work Demonstration Agreement (Agreement) between the Agency and the U.S. Department of Housing and Urban Development (HUD).
2. Unless otherwise provided in Attachment D of the Agreement, the Agency's MTW Demonstration Program applies to all of the Agency's public housing assisted units (including Agency-owned properties and units comprising a part of mixed-income, mixed finance communities) tenant-based Section 8 voucher assistance (hereinafter referred to as the "Housing Choice Voucher Program"), Section 8 project-based voucher assistance under Section 8(o) and Homeownership units developed using Section 8(y) voucher assistance.
3. The purpose of the Statement of Authorizations is to delegate to the Agency the authority to pursue locally driven policies, procedures and programs with the aim of developing better, more efficient ways to provide housing assistance and incentives to self-sufficiency to low, very-low, and extremely low-income families. The authorizations listed in this Attachment C are granted fully without requiring any additional HUD authorizations, as necessary to implement the activities described in the Annual MTW Plan. The Agency may proceed with activities based upon these authorizations once the activity has been included in the Annual MTW Plan, in accordance with Attachment B, and HUD has approved the Plan and activities. HUD will review and approve these documents to ensure that the Annual MTW Plan has provided meaningful citizen participation, taking into account comments from a public hearing and any other comments on the proposed program, as well as providing for, receiving, and meaningfully considering comments from current and prospective residents who would be affected. HUD will also review in order to ascertain that these activities are within the MTW authorizations provided by HUD.
4. The Agency reaffirms that it will comply with all applicable nondiscrimination and equal opportunity requirements set forth in 24 CFR 5.105(a), and will administer its programs and activities in a manner affirmatively to further fair housing. In particular, the Agency

must make reasonable modifications and accommodations needed by applicants and residents and must make units accessible in accordance with the Needs Assessment and Transition Plan as required under Section 504 of the Rehabilitation Act of 1973 and its implementing regulations.

**B. Authorizations Related to Both Public Housing and Section 8 Housing Choice Vouchers**

**1. Single Fund Budget with Full Flexibility**

*This authorization waives certain provisions of Sections 8 and 9 of the 1937 Act and 24 C.F.R. 982, and 990 as necessary to implement the Agency's Annual MTW Plan.*

- a. The Agency may combine funding awarded to it annually pursuant to Section 8(o), 9(d) and 9(e) of the 1937 Act into a single, authority-wide funding source ("MTW Funds"). However, section 9(d) funds are still subject to the obligation and expenditure deadlines and requirements provided in section 9(j) despite the fact that they are combined in a single fund. The funding amount for the MTW Funds may be increased by additional allocations of housing choice vouchers to which the Agency is entitled over the term of the Agreement. Special purpose vouchers will not be included in the MTW Funds during their initial term, though some may be included in the MTW Funds upon renewal.
- b. The Agency may use MTW Funds for any eligible activity under Sections 9(d)(1), 9(e)(1) and Section 8(o) of the 1937 Act. Within the scope of the permissible eligible activities, the Agency can carry out the purposes of the MTW Demonstration Program to provide flexibility in the design and administration of housing assistance to eligible families, to reduce cost and achieve greater cost effectiveness in Federal expenditures, to give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient, and to increase housing choices for low-income families, through activities that would otherwise be eligible under sections 8 and 9 of the 1937 Act, including, but not limited to, the following activities:
  - i. Provision of Capital funds or operating assistance to housing previously developed or operated pursuant to a contract between HUD and the Agency or newly acquired or developed pursuant to section ii below.
  - ii. The acquisition, new construction, reconstruction or moderate or substantial rehabilitation of housing (including, but not limited to, assisted living, or other housing as deemed appropriate by the Agency, in accordance with its mission), or commercial facilities consistent with the objectives of the demonstration. Such activities may include but are not limited to real property acquisition, site improvement, development of utilities and utility services and energy efficiency systems, conversion, demolition, financing, administration and planning costs, relocation and other related activities; provided, however, that prior HUD

approval is required for the development of any incremental public housing units, pursuant to Section 9(g)(3) of the 1937 Act.

- iii. The provision of housing or employment-related services or other case management activities, such as housing counseling in connection with rental or homeownership assistance, energy auditing, activities related to the provision of self-sufficiency and other services, employment counseling, education, training and other services related to assisting tenants, owners, contractors, and other persons or entities participating or seeking to participate in other housing or training and educational activities assisted pursuant to this section.
  - iv. The provision of management services, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant and project-based rental assistance and management of housing projects or other facilities or operations developed under this program.
  - v. The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of housing from crime.
  - vi. The provision of Housing Choice Voucher assistance or project-based rental assistance (under Section 8(o)), alone or in conjunction with other private or public sources of assistance.
  - vii. The preservation of public housing and/or Housing Choice Voucher units currently serving people of low income or the acquisition and/or development of new units for people of low income, provided that all rehabilitation and construction is done in accordance with the requirements of Section 504 of the Rehabilitation Act and where applicable, the design and construction requirements of the Fair Housing Act.
  - viii. If the Agency chooses to establish single fund flexibility, the Agency is authorized to use housing assistance payments for purposes other than payments to owners, so long as these purposes are consistent with other eligible uses of section 8 and section 9 funds.
- c. These activities may be carried out by the Agency, by an entity, agent, or instrumentality of the Agency, a partnership, a grantee, contractor, or other appropriate party or legal entity.
  - d. The Agency's expenditures must comply with OMB Circular A-87, which provides basic guidelines for the use of federal funds, and with this MTW Agreement.
  - e. The Agency may use capital funds (including development and replacement housing factor funds) in accordance with this Agreement.

2. Partnerships with For-Profit and Non-Profit Entities

The Agency may partner with for-profit and non-profit entities, subject to 24 C.F.R. Part 85 and 941.602(d), including, mixed-income, mixed-finance development partners and third party management companies, as well as affiliates and instrumentalities of the Agency (“Agency Partners”), to implement and develop all or some of the initiatives that may comprise the Agency’s MTW Demonstration Program. The Agency may, with respect to MTW eligible activity and when working with or partnering with such partners, make available to Agency Partners the least restrictive regulatory requirements allowable based on Agency’s participation in the MTW Demonstration Program and that agreements with Agency Partners may reflect the implementation of less restrictive regulatory requirements. *This authorization waives certain provisions of Sections 13 and 35 of the 1937 Act and 24 C.F.R. 941 Subpart F as necessary to implement the Agency’s Annual MTW Plan.*

3. Definition of Elderly Family

The Agency is authorized to amend the definition of elderly to include families with a head of household or family member who is at least 55 years old, and must be in compliance with the all Fair Housing Requirements, in particular the Housing for Older Persons Act of 1995. *This authorization waives certain provisions of Section 3 (b)(3) and (G) of the 1937 Act and 24 C.F.R. 5.403 as necessary to implement the Agency’s Annual MTW Plan.*

4. Transitional/Conditional Housing Program

The Agency may develop and adopt new short-term transitional housing programs, consistent with an eligible use of section 8 and 9 funds, with supportive services in one or more buildings in collaboration with local community-based organizations and government agencies. Successful participants in these programs will be eligible for transfer to the Agency’s public housing or housing choice voucher programs. The Agency will ensure that these programs do not have a disparate impact on protected classes, and will be operated in a manner that is consistent with the requirements of Section 504 of the Rehabilitation Act. More specifically, under no circumstances will residents of such programs be required to participate in supportive services that are targeted at persons with disabilities in general, or persons with any specific disability. In addition, admission to any of the programs developed under this section will not be conditioned on the presence of a disability or a particular disability. This section is not intended to govern the designation of housing that is subject to Section 7 of the 1937 Act. *This authorization waives certain provisions of Sections 3, 4, 5, 8, and 9 of the 1937 Act and 24 C.F.R. 941, and 960 Subpart B as necessary to implement the Agency’s Annual MTW Plan.*

5. Investment Policies

Subject to HUD approval, the Agency is authorized to adopt investment policies consistent with state law to the extent such policies are in compliance with applicable OMB circulars and other federal laws. The Agency shall invest only in securities authorized under state law that will allow the flexibility to invest productively and efficiently. *This authorization waives certain provisions of Section 6(c)(4) of the 1937 Act and 24 C.F.R. 982.156 as necessary to implement the Agency’s Annual MTW Plan.*

### C. Authorizations Related to Public Housing Only

#### 1. Site Based or Geographic Area Waiting List System

The Agency is authorized to implement a locally designed waiting list system in lieu of the specific procedural requirements of 24 C.F.R. Part 903 provided that it provides applicants with a reasonable choice of location in accordance with title VI of the Civil Rights Act, the Fair Housing Act, and other applicable civil rights requirements. The Agency may implement additional site-based waiting lists under this MTW Agreement. Such additional site-based waiting lists will be developed, at the Agency's option, to address various situations, including, but not limited to the following: (1) any existing or new or mixed-income, mixed finance communities; (2) any on-site and/or off-site public housing replacement units developed in support of the Agency's redevelopment or HOPE VI efforts, if any; (3) any specially designated public housing or project-based communities; and (4) combining or separating waiting lists for Section 8 tenant-based or project-based assistance, public housing rental communities, homeownership opportunities, and mixed-income, mixed-finance communities. *This authorization waives certain provisions of Section 6(r) of the 1937 Act and 24 C.F.R. 903.7 as necessary to implement the Agency's Annual MTW Plan.*

#### 2. Local Preferences and Admission and Continued Occupancy Policies and Procedures

The Agency is authorized to develop and adopt local preferences and admission policies and procedures for admission into the public housing program in lieu of HUD statutes, regulations or other requirements based in the 1937 Act so long as the families assisted qualify as low income, and that the total mix of families assisted meets the requirements of part I.C of the MTW Agreement. The Agency is required to revise the Admissions and Continued Occupancy Policy (ACOP), to implement changes in public housing occupancy policy as a result of the MTW program. Regardless of changes to the Agency's adopted ACOP policies and procedures, the Agency must comply with Sections I(B)(1) and II(D) of this Agreement. The Agency is subject to state and local preferences law. *This authorization waives certain provisions of Section 3 of the 1937 Act and 24 C.F.R. 960.206 as necessary to implement the Agency's Annual MTW Plan.*

#### 3. Deconcentration Policy

The Agency is authorized to develop and adopt a local policy designed to provide for deconcentration and income mixing in public housing communities. *This authorization waives certain provisions of Section 16(3)(B) of the 1937 Act and 24 C.F.R. 903.2 as necessary to implement the Agency's Annual MTW Plan.*

#### 4. Initial, Annual and Interim Income Review Process

The Agency is authorized to restructure the initial, annual and interim review process in the public housing program in order to affect the frequency of the reviews and the methods and process used to establish the integrity of the income information provided. In addition, the Agency is expressly authorized to adopt a local system of income verification in lieu of the current HUD system. For example, the Agency may implement alternate time frames for validity of verification or adopt policies for verification of income and assets through sources other than those currently allowed under the 1937 Act. *This authorization waives certain provisions of sections 3(a)(1) and 3(a)(2) of the 1937*

*Act and 24 C.F.R. 966.4 and 960.257, as necessary to implement the Agency's Annual MTW Plan.*

5. Use of Public Housing as an Incentive for Economic Progress

The Agency is authorized to modify current public housing occupancy policies to use housing as an incentive for making economic progress, as long as Section II.C. of the MTW Agreement is adhered to. Such modifications may include revising maximum income limits for admission or continued occupancy. Families denied admission or continued occupancy shall continue to be entitled to the right to an informal hearing. *This authorization waives certain provisions of Section 6(c) of the 1937 Act and 24 C.F.R. 960.201, as necessary to implement the Agency's Annual MTW Plan.*

6. Incentives for Underutilized Developments

The Agency is authorized to develop and offer incentives that will attract applicants to developments, or portions thereof, which have been difficult to market. *This authorization waives certain provisions of Section 3(a)(2) and 3(a)(3)(A) of the 1937 Act and 24 C.F.R. 960 subpart B as necessary to implement the Agency's Annual MTW Plan.*

7. Simplification of the Development and Redevelopment Process for Public Housing

*This authorization waives certain provisions of Sections 4, 5, 9, 24, 32 and 35 of the 1937 Act and 24 C.F.R. 941 as necessary to implement the Agency's Annual MTW Plan.*

- a. The Agency may, at its own discretion, allow any authorizations and regulatory relief granted to the Agency pursuant to this MTW Agreement to inure to the benefit of the Agency's Partners with respect to MTW eligible activities, and HUD hereby agrees to the amendment of any and all evidentiaries necessary to implement the least restrictive regulatory requirements allowable.
- b. The Agency is authorized to establish reasonable low-income homeownership programs, such as a lease-to-own program, that are not limited by the existing public housing homeownership requirements, provided that units can only be sold to current public housing residents and that any disposition of current public housing units must be approved in advance by HUD. Any disposition application will be submitted and processed in accordance with this Agreement.

8. Streamlined Demolition and Disposition Procedures

The Agency may choose to follow HUD's "Streamlined Processing Instructions for Disposition, Demolition, and Disposition/Demolition Applications from MTW Agencies."

9. Simplification of Property Management Practices

The Agency is authorized to simplify property management practices as follows:

- a. The Agency is authorized to deploy a risk management approach in establishing property and system inspection protocols and frequencies in lieu of the HUD requirements of annual inspections by Agencies, as long as these protocols assure that housing units assisted under the demonstration meet housing quality standards approved or established by the Secretary. *This authorization waives certain provisions of Section 6 (f) of the 1937 Act and 24 C.F.R. 902-Subpart B as necessary to implement the Agency's Annual MTW Plan.*

- b. The Agency is authorized to develop and adopt a new form of local lease and establish community rules, grievance procedures, tenant self-sufficiency requirements and reasonable tenant fees based on proven private management models (subject to State and local laws), provided that no-cause evictions are not permitted. *This authorization waives certain provisions of Section 6 (l) of the 1937 Act and 24 C.F.R. 966 Subparts A and B as necessary to implement the Agency's Annual MTW Plan.*

10. Special Admissions and Occupancy Policies for Certain Public Housing Communities

The Agency is authorized to involve a broad spectrum of community stakeholders, including advocacy groups, in a process to explore and adopt reasonable restrictions for occupancy of specific public housing buildings in the Agency's inventory. Buildings, or portions of buildings (floors, units), may be designated as Smoke-Free, Pet-Free or Assisted Living (or other similar reservations). The Agency may establish admissions preferences in order to establish these special occupancy requirements. A key goal of this initiative will be to ensure that the Agency is able to maintain and improve the quality of life in the Agency communities. These reservations or policies must not have a disparate impact on protected classes and must be operated in a manner that is consistent with the requirements of Section 504 of the Rehabilitation Act. Any such designations or policies will include adequate safeguards for the disabled, including protections for disabled persons who are Agency residents and those seeking housing assistance. Residents can voluntarily participate in any of the services provided. Once adopted, the designations or policies will be updated and reviewed as part of the Annual MTW Plan and Report submitted by the Agency for HUD's review. In particular, the Agency will review the demographic make-up of its current resident population and applicants to assess the need for and support any changes to its designations or policies. *This authorization waives certain provisions of Sections 3, 6, 7, 16, and 31 of the 1937 Act and 24 C.F.R. 945 subpart C, 960 Subparts B, D, E and G as necessary to implement the Agency's Annual MTW Plan.*

11. Rent Policies and Term Limits

The Agency is authorized to determine family payment, including the total tenant payment, the minimum rent, utility reimbursements and tenant rent. The Agency is authorized to adopt and implement any reasonable policies for setting rents in public housing including but not limited to establishing definitions of income and adjusted income, or earned income disallowance that differ from those in current statutes or regulations. The Agency is authorized to adopt and implement term limits for its public housing assistance. Such policies must include provisions for addressing hardship cases. *This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 C.F.R. 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A as necessary to implement the Agency's Annual MTW Plan.*

12. Design Guidelines

The Agency is authorized to establish reasonable and modest design guidelines, unit size guidelines and unit amenity guidelines for development and redevelopment activities that will replace HUD guidelines with guidelines that reflect local marketplace conditions for quality construction in its locality so long as all units meet housing quality standards approved by the Secretary. *This authorization waives certain provisions of Sections 4, 5, and 9 of the 1937 Act and 24 C.F.R. 941.202, 941.203, 941.401, and 941.403 as*

*necessary to implement the Agency's Annual MTW Plan.*

13. Site Acquisition

The agency is authorized to acquire sites without prior HUD approval, provided that the agency certifies that HUD site selection requirements have been met. *This authorization waives certain provisions of 24 C.F.R. 941.401 as necessary to implement the Agency's Annual MTW Plan.*

14. Commercial Business Venture

The Agency is authorized to enter into commercial business ventures as part of its neighborhood revitalization or affordable housing strategies or other strategies designed to serve as catalysts for revitalization of public housing or surrounding communities. Any venture must be consistent with eligible uses of funds under Sections 8 and 9 of the 1937 Act. *This authorization waives certain provisions of 24 C.F.R. 941 subpart F as necessary to implement the Agency's Annual MTW Plan.*

15. Available Property

The Agency is authorized to make available public housing property including dwelling and non-dwelling spaces and vacant land for the purpose of providing services, programs and capital improvements that benefit residents and program participants. *This authorization waives certain provisions of Section 9 of the 1937 Act and 24 C.F.R. 990 Subpart B as necessary to implement the Agency's Annual MTW Plan.*

16. Total Development Cost (TDC) limits

The agency is authorized to establish reasonable cost formulas for development and redevelopment activities that will replace HUD's TDC limits in order to reflect local marketplace conditions for quality construction in its locality. *This authorization waives certain provisions of Section 6(b) of the 1937 Act and 24 C.F.R. 941.306 as necessary to implement the Agency's Annual MTW Plan.*

**D. Authorizations Related to Section 8 Housing Choice Vouchers Only**

1. Operational Policies and Procedures

The Agency is authorized to determine the following basic operational policies and procedures for all Section 8 assistance the Agency is provided under section 8(o) of the 1937 Act:

- a. The Agency is authorized to determine the term and content of Housing Assistance Payment (HAP) contracts to owners during the term of the MTW demonstration. However, any revised HAP contract must include language noting that the funding for the contract is subject to the availability of Appropriations. *This authorization waives certain provisions of Section 8(o)(7) of the 1937 Act and 24 C.F.R. 982.162 as necessary to implement the Agency's Annual MTW Plan;*
- b. The Agency is authorized to determine the length of the lease period, when vouchers expire and when vouchers will be reissued. *This authorization waives certain provisions of Sections 8(o)(7)(a), 8(o)(13)(F) and 8(o)(13)(G) of the 1937 Act and 24 C.F.R. 982.303, 982.309 and 983 Subpart F as necessary to implement the Agency's Annual MTW Plan;*

- c. The Agency is authorized to define, adopt and implement a reexamination program that differs from the reexamination program currently mandated in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Section 8(o)(5) of the 1937 Act and 24 C.F.R. 982.516 as necessary to implement the Agency's Annual MTW Plan;*
- d. The Agency is authorized to determine a damage claim and/or vacancy loss policy and payment policy for occupied units that differs from the policy requirements currently mandated in the 1937 Act and its implementing regulations. Damage and vacancy authority are subject to state and local laws. *This authorization waives certain provisions of Section 8(o)(9), of the 1937 Act and 24 C.F.R. 982.311 as necessary to implement the Agency's Annual MTW Plan;*
- e. The Agency is authorized to determine the percentage of housing voucher assistance that it is permitted to project-base, and criteria for expending funds for physical improvements on those units that differs from the percentage and criteria requirements currently mandated in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Section 8(o)(13) of the 1937 Act and 24 C.F.R. 983 as necessary to implement the Agency's Annual MTW Plan;*
- f. The Agency is authorized to determine property eligibility criteria, including types of units currently prohibited by Section 8 regulations, as well as shared living facilities. If the Agency chooses to use this authorization, it will need to provide a transition plan to both the affected residents and HUD prior to the end of the demonstration. *This authorization waives certain provisions of Section 8(p) of the 1937 Act and 24 C.F.R. 983.53-54 and 982 Subparts H and M as necessary to implement the Agency's Annual MTW Plan; and*
- g. The Agency is authorized to establish its own portability policies with other MTW and non-MTW housing authorities. *This authorization waives certain provisions of Section 8(r) of the 1937 Act and 24 C.F.R. 982 Subpart H as necessary to implement the Agency's Annual MTW Plan.*

## 2. Rent Policies and Term Limits

- a. The Agency is authorized to adopt and implement any reasonable policy to establish payment standards, rents or subsidy levels for tenant-based assistance that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. The Agency is authorized to adopt and implement any reasonable policies to calculate the tenant portion of the rent that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Sections 8(o)(1), 8(o)(2), 8(o)(3), 8(o)(10) and 8(o)(13)(H)-(I) of the 1937 Act and 24 C.F.R. 982.508, 982.503 and 982.518, as necessary to implement the Agency's Annual MTW Plan;*

- b. The Agency is authorized to determine contract rents and increases and to determine the content of contract rental agreements that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Sections 8(o)(7) and 8(o)(13) of the 1937 Act and 24 C.F.R. 982.308, 982.451 and 983 Subpart E as necessary to implement the Agency's Annual MTW Plan;*
- c. The Agency is authorized to develop a local process to determine rent reasonableness that differs from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Section 8(o)(10) of the 1937 Act and 24 C.F.R. 982.507 as necessary to implement the Agency's Annual MTW Plan;* and
- d. The Agency is authorized to implement term limits for HCV units designated as part of the MTW demonstration. *This authorization waives certain provisions of Sections 8(o)(7) and 8(o)(13)(F)-(G) of the 1937 Act and 24 C.F.R. 982 Subpart L and 983 Subpart E as necessary to implement the Agency's Annual MTW Plan.*

### 3. Eligibility of Participants

- a. The Agency is authorized to determine income qualifications for participation in the rental assistance program that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations, as long as the requirements that i) at least 75 percent of those assisted under the demonstration are "very low-income" as defined in section 3(b)(2) of the 1937 Act, ii) substantially the same number of low-income persons are assisted under the demonstration as would be without the MTW authorizations contained herein, and iii) a comparable mix of families are assisted under the Agreement as would have been otherwise in Section I.C. of the MTW Agreement are met. *This authorization waives certain provisions of Sections 16(b) and 8(o)(4) of the 1937 Act and 24 C.F.R. 5.603, 5.609, 5.611, 5.628, and 982.201 as necessary to implement the Agency's Annual MTW Plan;* and
- b. The Agency is authorized to adopt and implement any reasonable policy for verifying family income and composition and for determining resident eligibility that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of 24 C.F.R. 982.516 and 982 Subpart E, as necessary to implement the Agency's Annual MTW Plan.*

### 4. Waiting List Policies

The Agency is authorized to determine waiting list procedures, tenant selection procedures and criteria and preferences, including authorizing vouchers for relocation of witnesses and victims of crime that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Sections 8(o)(6), 8(o)(13)(J) and 8(o)(16) of the 1937 Act*

and 24 C.F.R. 982 Subpart E, 982.305 and 983 Subpart F as necessary to implement the Agency's Annual MTW Plan.

5. Ability to Certify Housing Quality Standards

The Agency is authorized to certify that housing assisted under MTW will meet housing quality standards established or approved by HUD. The certification form will be approved or provided by HUD. *This authorization waives certain provisions of Section 8(o)(8) of the 1937 Act and 24 C.F.R. 982, Subpart I as necessary to implement the Agency's Annual MTW Plan.*

6. Local Process to Determine Eligibility

The Agency is authorized to adopt a local process for determining whether units meet certain eligibility requirements, provided such requirements are part of the 1937 Act. *This authorization waives certain provisions of Section 8(o)(13) of the 1937 Act and 24 C.F.R. 983 Subpart D as necessary to implement the Agency's Annual MTW Plan.* This includes, but is not limited to, the following:

- a. The minimum expenditure requirement and the timing of rehabilitation and construction of units.
- b. The type of funds that may be used to rehabilitate or construct units.
- c. Procedures to determine whether or not units meet the Agency's requirements regarding rehabilitation and construction, including what information is required to be submitted by owners to the Agency.

7. Establishment of an Agency MTW Section 8 Project-Based Program

The Agency is authorized to develop and adopt a reasonable policy and process for project-basing Section 8 tenant-based leased housing assistance, which includes the components set forth below:

- a. The Agency is authorized to project-base Section 8 assistance at properties owned directly or indirectly by the Agency that are not public housing, subject to HUD's requirements regarding subsidy layering. If the Agency chooses to project-base Section 8 assistance at such properties, the Agency recognizes and accepts that such units would no longer be eligible for operating subsidy provided under Section 9(e) of the 1937 Housing Act or for future capital funds provided under section 9(d) for those units if it chooses to use this authorization. Project-based assistance for such owned units does not need to be competitively bid, nor are the owned units subject to any required assessments for voluntary conversion. *This authorization waives certain provisions of Sections 8(o)(13)(B and D) of the 1937 Act and 24 C.F.R. 982.1, 982.102 and 24 C.F.R. Part 983 as necessary to implement the Agency's Annual MTW Plan;*
- b. The Agency is authorized to establish a reasonable competitive process or utilize an existing local competitive process for project-basing leased housing assistance at units that meet existing Housing Quality Standards, or any standards developed by the Agency pursuant to this MTW Agreement and approved by the Secretary, and that are owned by non-profit, or for-profit housing entities. *This authorization waives certain provisions of 24 C.F.R. 983.51 as necessary to implement the*

*Agency's Annual MTW Plan;*

- c. The Agency is authorized to duly adopt, according to the requirements of local law, alternate standards for determining the location of existing, newly constructed or substantially rehabilitated housing to receive subsidy; provided, however, *that in lieu of the Site Selection Standards currently set forth in 24 C.F.R. Section 983.57*, the agency will comply with the following requirements:
  - i. The Agency will comply with the Fair Housing Act and Title VI of the Civil Rights Act of 1964, and implementing regulations thereto, in determining the location of newly constructed or acquired public housing units.
  - ii. Units may be located in the agency's jurisdiction, including within, but not limited to, the following types of urban areas: (1) an area of revitalization that has been designated as such by the governing jurisdiction, including Redevelopment Areas and Enhanced Enterprise Communities, (2) an area where public housing units were previously constructed and were demolished, (3) a racially or economically impacted area where the agency plans to preserve existing affordable housing, (4) in connection with a HOPE VI or other HUD funded master planned development, (5) in areas where a needs analysis indicates that subsidized housing represents a low percentage of the total number of housing units in the area, or (6) relocating units to an area with a lower concentration of public housing units.
  - iii. Conduct a housing needs analysis indicating that there is a real need for the housing in the area; and
  - iv. When developing or substantially rehabilitating six or more Section 8 project-based units, the agency will: (1) advise current residents of the subject properties and representative community groups in the vicinity of the subject property by letter to resident organizations and by public meeting, of the agency's revitalization plan; and (2) certify to HUD in its Annual MTW Report that the comments from Residents and representative community groups have been considered in the revitalization plan. Documentation evidencing that the agency has met the stated requirements will be maintained at the housing authority and submitted to HUD in its Annual MTW Report.
- d. All units that receive project-based Section 8 assistance must meet either (i) existing HQS standards established by the Secretary or (ii) a local standard for communities receiving project-based Section 8 assistance developed by the Agency and approved by the Secretary pursuant to this MTW Agreement, as applicable. *This authorization waives certain provisions of Section 8(o)(8) of the 1937 Act and 24 C.F.R. 982 Subpart I as necessary to implement the Agency's Annual MTW Plan.*

## 8. Homeownership Program

- a. The Agency is authorized to establish reasonable Section 8 homeownership programs that are not limited by the existing Section 8 homeownership requirements. *This authorization waives certain provisions of Section 8(o)(15) and 8(y) of the 1937 Act and 24 C.F.R. 982.625 through 982.643 inclusive as necessary to implement the Agency's Annual MTW Plan; and*
- b. The Agency is authorized to permit current public housing residents who are on a merged waiting list to obtain a Section 8 homeownership voucher. *This authorization waives certain provisions of Sections 8(o)(15) and 8(y) of the 1937 Act and 24 C.F.R. 982.625 through 982.643 inclusive as necessary to implement the Agency's Annual MTW Plan.*

## E. Authorizations Related to Family Self Sufficiency

The Agency is authorized to operate any of its existing self-sufficiency and training programs, including its Family Self-Sufficiency (FSS) Program and any successor programs exempt from certain HUD program requirements. These may include those requirements governing program size or participation, including whether to establish escrow accounts and other rent incentives and whether to establish mandatory self-sufficiency participation requirements. If the Agency receives dedicated funding for an FSS coordinator, such funds must be used to employ a self-sufficiency coordinator. In developing and operating such programs, the Agency is authorized to establish strategic relationships and partnerships with local private and public agencies and service providers to leverage expertise and funding. However, notwithstanding the above, any funds granted pursuant to a competition must be used in accordance with the NOFA and the approved application and work plan. *This authorization waives certain provisions of Section 23 of the 1937 Act and 24 C.F.R. 984 as necessary to implement the Agency's Annual MTW Plan.*

**ATTACHMENT D****LEGACY AND COMMUNITY-SPECIFIC AUTHORIZATIONS****TO  
AMENDED AND RESTATED MOVING TO WORK AGREEMENT  
BETWEEN  
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND THE  
HOUSING AUTHORITY OF THE COUNTY OF SANTA CLARA****A. Relationship between Housing Authorities**

The Housing Authority of the City of San Jose (HASJ) has agreed that on HASJ's behalf the Housing Authority of the County of Santa Clara (HACSC) may submit Annual MTW Plans, Annual MTW Reports and any other MTW documents relating to HASJ's MTW Agreement, and may take any actions authorized by HASJ's MTW Agreement. The actions HACSC may take under this Agreement or HASJ's MTW Agreement may include, without limitation, use of any MTW Funds originally committed to HACSC or HASJ, for any purpose and in any manner authorized for either HACSC or HASJ under either MTW Agreement. Annual MTW Plans and Annual MTW Reports may be consolidated to cover the MTW activities of both HACSC and HASJ. Notwithstanding such consolidation, HACSC and HASJ shall continue to provide separate reports regarding program activities, including financial reports, to the extent required by HUD.

**B. Approved Public Housing Disposition Application**

HACSC received HUD approval on September 26, 2007, to dispose of all of its public housing. The authorizations in this Agreement with respect to public housing are applicable until disposition. Notwithstanding any other provision of this Agreement, HACSC shall continue to adhere to the terms and conditions of HUD's disposition approval, except that in addition to other authorized uses HACSC may use any net proceeds resulting from the disposition for any purpose authorized under this Agreement.

**C. Type and Frequency of Inspections for Voucher Program**

HACSC is authorized to deploy a risk management approach in establishing property and system inspection protocols and frequencies in lieu of the HUD requirements of annual inspections by Agencies, as long as these protocols assure that housing units assisted under the demonstration meet housing quality standards approved or established by the Secretary. *This authorization waives certain provisions of Section 8(o) of the 1937 Act and 24 C.F.R. 982 and 985 as necessary to implement the Agency's Annual MTW Plan.*

**D. Reporting on Other Families Served**

Notwithstanding anything to the contrary in Attachment B, HACSC will not report on or otherwise consider "Other families served" for purposes of measuring and determining

compliance with MTW requirements regarding number of eligible low-income families and mix of family sizes to be served.

**FIRST AMENDMENT**  
**TO**  
**MOVING TO WORK AGREEMENT**  
**BETWEEN**  
**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**AND**  
**HOUSING AUTHORITY OF THE COUNTY OF SANTA CLARA**

This First Amendment to the Moving to Work ("MTW") Agreement ("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 Santa Clara ("Agency") and is effective on the date of execution by HUD. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings ascribed to them in the Agreement.

Attachment A to the Agreement is amended as follows:

The following language is added to the end of paragraph C.4 of Attachment A to the MTW Agreement:

Commencing with calendar year 2010, administrative fee eligibility for each calendar year will be calculated in accordance with the appropriations requirements (including Continuing Resolutions where applicable) for that calendar year. This methodology will apply only to those vouchers for which administrative fees are not already included in a combined calculation of both housing assistance and administrative fees. In every year, fee eligibility will be pro-rated at the same level as applies to all other agencies. Administrative fees for vouchers added to the agency's inventory after the base period will be paid according to each year's appropriation requirements.

Attachment D is amended as follows:

Add the following language is added to Attachment D to the MTW Agreement:

**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.

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

HOUSING AUTHORITY OF THE COUNTY OF  
SANTA CLARA

By:   
Name: Alex Sanchez

Its: Executive Director

Date: 4/23/10

04/06/2010

UNITED STATES DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT

By: *Sandra B. Henriquez*

Name: Sandra B. Henriquez

Its: Assistant Secretary

Date: 04/30/2010

### Moving to Work Agreement

This Moving to Work Demonstration Agreement (Agreement) is entered into on this ~~26<sup>th</sup>~~ day of ~~FEB~~ 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 City of San Jose** (Agency). The term of this Agreement shall begin on the Date of Execution by HUD and shall continue until the end of the Agency's 2018 Fiscal Year, subject to meeting the evaluation criteria described in Section IV, unless such term is otherwise extended by HUD; and

WHEREAS, Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) (1996 Appropriations Act) establishes the statutory framework known as the Public Housing/Section 8 Moving to Work (MTW) demonstration program; and

WHEREAS, Section 204(a) of the 1996 Appropriations Act provides that public housing agencies that administer Section 8 and public housing (Agencies) and the Secretary of HUD (Secretary) shall have the flexibility to design and test various approaches for providing and administering housing assistance that: 1) reduce cost and achieve greater cost effectiveness in Federal expenditures; 2) give incentives to families with children whose heads of household are either working, seeking work, or are participating in job training, educational or other programs that assist in obtaining employment and becoming economically self-sufficient; and 3) increase housing choices for low-income families (the three statutory objectives); and

WHEREAS, pursuant to Section 204(a) of the 1996 Appropriations Act, HUD may permit Agencies to combine funds appropriated under sections 8 and 9 of the 1937 Act, and may exempt Agencies from provisions of the 1937 Act and implementing regulations thereunder pertaining to Public and Indian Housing and section 8 voucher assistance; and

WHEREAS, pursuant to Section 230 of H.R. 2764, the Consolidated Appropriations Act, 2008, the Secretary of Housing and Urban Development shall increase, pursuant to this section, the number of Moving-to-Work agencies authorized under section 204, title II, of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321-281) by making individually the Alaska Housing Finance Corporation and the housing authorities of the counties of San Bernardino and Santa Clara and the city of San Jose, California, a Moving-to-Work Agency under such section 204; and

WHEREAS, the Secretary determined that the Agency satisfies the Secretary's selection criteria and selected the Agency to participate in MTW; and

WHEREAS, the parties have previously entered into one or more Annual Contributions Contracts (ACCs) setting forth the terms and conditions under which the Agency participates in the public housing and/or Section 8 Housing Choice Voucher programs administered by HUD; and

WHEREAS, the parties agree to execute this Agreement; and

WHEREAS, it is a goal of the MTW demonstration to design and test innovative methods of providing housing and delivering services to low-income families in an efficient and cost effective manner, and HUD and the Agency agree to fully cooperate with each other in order to make the demonstration a success;

NOW, THEREFORE, in reliance upon and in consideration of the mutual representations and obligations hereunder, the parties do agree as follows:

## **I. Statutory Authorizations**

- A. This Agreement waives certain provisions of the United States Housing Act of 1937, as amended (1937 Act), and HUD's implementing requirements and regulations thereunder, as are set forth in the Statement of Authorizations (Attachment C), and the Legacy and Community-Specific Authorizations (Attachment D) only to the extent they are necessary to implement the Agency's Annual MTW Plan. Except as noted in Section I.B. below, this Agreement supersedes the terms and conditions of one or more ACCs between the Agency and HUD, to the extent necessary for the Agency to implement its MTW demonstration initiatives as laid out in the Agency's Annual MTW Plan, as approved by HUD.
- B. Notwithstanding the preceding authority waiving certain provisions of the 1937 Act as necessary to implement the Agency's Annual MTW Plan, the following provisions of the 1937 Act, as otherwise applicable, shall continue to apply to the Agency and/or assistance received pursuant to the 1937 Act:
  1. The terms "low-income families" and "very low-income families" shall continue to be defined by reference to Section 3(b)(2) of the 1937 Act (42 U.S.C. § 1437a(b)(2));
  2. Section 12 of the 1937 Act (42 U.S.C. § 1437j), as amended, shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance; and
  3. Section 18 of the 1937 Act (42 U.S.C. § 1437p, as amended by Section 1002(d) of Public Law 104-19, Section 201(b)(1) of Public Law 104-134, and Section 201(b) of Public Law 104-202), governing demolition and disposition, shall continue to apply to public housing notwithstanding any use of the housing under MTW.
- C. This Agreement only waives certain provisions of the 1937 Act and its implementing regulations. Other federal, state and local requirements applicable to public housing shall continue to apply notwithstanding any term contained in this Agreement or any Authorization granted thereunder. Accordingly, if any requirement applicable to public housing, outside of the 1937 Act, contains a provision that conflicts or is inconsistent with any authorization granted in this Agreement, the MTW Agency remains subject to the terms of that requirement. Such requirements include, but are not limited to, the following: 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 (including regulations promulgated by HUD thereunder in 24 C.F.R. part 85).

- D. The MTW Agency is authorized to conduct activities in accordance with the Statement of Authorizations (Attachment C) and in accordance with the Legacy and Community-Specific Authorizations (Attachment D), as applicable. In the event of a conflict between Attachment C and Attachment D, the authorizations in Attachment D will supersede those in Attachment C.
- E. Notwithstanding any provision set forth in this MTW Agreement, including without limitations, the term of years and all extensions, renewals and options, and the terms set forth herein otherwise, any federal law that amends, modifies, or changes the aforementioned term of years and/or other terms of this Agreement shall supersede this Restated Agreement such that the provisions of the law shall apply as set forth in the law.

## **II. Requirements and Covenants**

- A. The amount of assistance received under sections 8 or 9 of the 1937 Act by an Agency participating in the demonstration shall not be diminished by the Agency's participation in the MTW demonstration.
- B. The Agency agrees that any HUD assistance that the Agency is authorized to use under the MTW demonstration shall be used in accordance with the Agency's Annual MTW Plans, as may be applicable. The Agency hereby certifies that the Agency's governing board has approved this Agreement, and each Annual MTW Plan issued prior to the date hereof, as applicable, and that a copy of each such board approval has been provided to HUD.
- C. The Agency shall hold at least one public hearing per Annual MTW submission, and make the Annual MTW Plan available for public comment for at least thirty (30) days. The Agency agrees to take into account public comments on the program design, including comments from current tenants/participants, to the extent such comments were provided.
- D. The Agency shall: (i) ensure that at least 75 percent of the families assisted are very low-income families, as defined in section 3(b)(2) of the 1937 Act, (ii) assist substantially the same total number of eligible low-income families under MTW, as would have been served absent the demonstration, and (iii) 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.
- E. When providing public housing, the Agency will ensure that it is safe, decent, sanitary, and in good repair, according to an inspection protocol established or approved by the Secretary. This in no way precludes the Agency from modifying its own inspection

protocol as authorized in Attachments C and/or D as long as such protocol meets the housing quality standards established or approved by the Secretary.<sup>1</sup>

- F. The Agency agrees to keep project level budgeting and accounting, report financial statements in the Financial Data Schedule (FDS)<sup>2</sup>, and abide by project level management reviews and fees. The Agency will conform to OMB Circular A-87 and the HUD definition of reasonable fees as defined in 24 CFR part 990, and HUD's Financial Management Guidebook 7475.1 and Supplement, as they may be amended.
- G. HUD will not score the Agency under HUD's Public Housing Assessment System (PHAS) or HUD's Section Eight Management Assessment Program (SEMAP), or their successor systems, unless the Agency elects to be scored. If the Agency elects to be scored, the agency will continue to be scored for the duration of the demonstration.
- H. The Agency agrees to cooperate fully with HUD and its contractors in the monitoring and evaluation of the MTW demonstration, to keep records, and to submit reports and other information to HUD as described in the Agreement.
- I. The Agency shall comply with the requirements of the National Environmental Policy Act (NEPA) and other related federal laws and authorities identified in 24 C.F.R. Part 50 or Part 58, as applicable.
- J. The Agency will comply with all applicable nondiscrimination and equal opportunity requirements set forth in 24 C.F.R. § 5.105(a), and will administer its programs and activities in a manner affirmatively to further fair housing. In particular, the Agency must make reasonable accommodations needed by applicants and residents and must make units accessible in accordance with the Needs Assessment and Transition Plan as required under Section 504 of the Rehabilitation Act of 1973 and its implementing regulations.
- K. The Agency will comply with the terms of any applicable court orders or Voluntary Compliance Agreements that are in existence or may come into existence during the term of the Agreement. The Agency further agrees that it will cooperate fully with any investigation by the HUD Office of Inspector General or any other investigative and law enforcement agencies of the U.S. Government.
- L. Unless otherwise provided herein, this Agreement does not apply to Section 8 assistance that is required:
  - 1. To meet existing contractual obligations of the Agency to a third party (such as Housing Assistance Payment contracts with owners under the Agency's Section 8 Housing Choice Voucher program);
  - 2. For payments to other public housing authorities under Section 8 portability billing procedures; or

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<sup>1</sup> Agencies are still subject to state and local building codes, and housing codes, and state and local public housing law on inspections.

<sup>2</sup> The Agency agrees to comply with FDS submission requirements, including the requirement to submit project level financial data in the FDS.

3. To meet particular purposes for which HUD has expressly committed the assistance to the Agency.

The aforementioned covenants made by the Agency are not exclusive, as the Agency must also comply with all requirements applicable to public housing other than both those provisions of the 1937 Act, as amended from time to time, and its implementing regulations specifically waived by the Authorizations contained in this Agreement.

### **III. Rent Reform Initiatives**

The Agency shall establish a reasonable rent policy that is designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration. In developing its rent policy, the Agency must adopt a policy for addressing hardship cases. To meet the Department's purposes of evaluating the MTW demonstration, Agencies may randomly assign new participants into the MTW group, which will provide an alternate program/rent structure, and into a control group, which will continue to operate under the 1937 Act requirements, and collect useful participant data at the point of random assignment.

### **IV. Evaluation**

- A. HUD will consider the following criteria when evaluating whether this Agency shall continue in the MTW Demonstration:
  1. The Agency is in compliance with this Agreement.
  2. The Annual MTW Plans and Reports have been satisfactorily completed and submitted in a timely manner, consistent with this Agreement; and
  3. The Agency has demonstrated, through the Annual MTW Plan and Report, that it has used its MTW designation (i.e., engaged in MTW Activities), as set forth in Section 204 of the 1996 Appropriations Act.
- B. If, after the evaluation during FY 2011 and FY 2014, HUD determines that the Agency fails to meet the above criteria, HUD can terminate this Agreement.

### **V. Amendments and Continuation of Activities**

- A. Amendment of this Agreement. This Agreement may be further amended upon mutual agreement of the Agency and HUD. Proposed amendments by the Agency to the Agreement shall be submitted in writing to HUD's Office of Public and Indian Housing, or its successor, only after the Agency has conducted a public hearing, considered comments from the hearing in drafting the proposed amendment, and obtained an approval from the Agency's Board of Commissioners or Directors, as applicable. HUD will respond to the Agency in writing to either approve and execute or disapprove the amendment request. The Statement of Authorizations (Attachment C) may be unilaterally amended by HUD only in order to add to the existing authorizations. The Legacy and Community-Specific Authorizations (Attachment D) may be amended upon mutual agreement between HUD and the Agency. In the event of a conflict between Attachment C and Attachment D, the authorizations in Attachment D supersede the authorizations in Attachment C.

- B. Amendment of the Annual MTW Plan. Amendments to the Annual MTW Plan only need to be made if the proposed MTW activity falls outside the scope of the HUD-approved Annual MTW Plan. An MTW activity is defined as an activity that an Agency participating in the MTW demonstration is authorized to undertake only by means of invoking an authorization included in Attachment C or Attachment D of this Agreement, as opposed to an activity that a non-MTW agency could undertake pursuant to the conventional public housing and Section 8 Housing Choice Voucher programs' statutory and regulatory requirements. Proposed amendments by the Agency to the Annual MTW Plan shall be submitted in writing to HUD's Office of Public and Indian Housing, or its successor, only after the Agency has conducted a public hearing, considered comments from the hearing in drafting the proposed amendment, and obtained an approval from the Agency's Board of Commissioners or Directors, as applicable. HUD will respond in writing to either approve or disapprove the amendment request.

The letter requesting any amendment to the Annual MTW Plan should include the following information in relation to the proposed MTW Activity:

1. Description of the proposed activity;
2. Description of how the activity relates to at least one of the three statutory objectives;
3. Identification and discussion of the anticipated impact of the proposed MTW activity on the stated objective;
4. Description of the baselines and benchmarks that the Agency will use to measure the performance and progress of the MTW activities;
5. Description of the data collection process and metrics the Agency will use to measure how this activity will achieve one or more of the MTW statutory objectives; and
6. The specific provision of the 1937 Act or regulation that is waived under MTW that authorized the Agency to make this change, when applicable.

C. Continuation of Activities.

1. Not later than one year prior to expiration of this Agreement, the Agency shall submit a transition plan to HUD. It is the Agency's responsibility to plan in such a manner that it will be able to end all features of the MTW Plan upon expiration of the Agreement, as HUD cannot guarantee that it will be able to extend any features of the Plan. The transition plan shall describe plans for phasing out of such authorizations/features. The plan shall also include any proposals of authorizations/features of the Agreement that the Agency wishes to continue beyond the expiration of the Agreement. The Agency shall specify the proposed duration, and shall provide justification for extension of such authorization/features. HUD will respond to the Agency in writing in a timely manner. Only authorizations/features specifically approved for extension shall continue beyond the term of the MTW Agreement. The extended features shall

remain in effect only for the duration and in the manner specified in the approved transition plan.

2. HUD will review and respond to timely-submitted transition plans within 75 days or they are deemed approved. To the extent that HUD has questions or feedback within this 75-day period, HUD will transmit such information within a sufficient time period for the Agency to respond and for HUD to approve a transition plan within 75 days of submission of the plan.

## VI. Funding

- A. Funding Methodology. During the term of the MTW demonstration, HUD will provide the Agency with public housing operating subsidies, and modernization or capital funds (including development and replacement housing factor funds), and with tenant-based Section 8 assistance, as provided in Attachment A. If the Agency's Attachment A does not describe the funding methodology for any of these funding streams, the Agency's funding will be calculated according to standard HUD calculations of Agency benefits.
- B. Funding Disbursements. The Agency will receive its public housing operating subsidy and Section 8 tenant-based funding in accordance with the following calculation and disbursement requirements:
  1. Operating Fund subsidies
    - a. HUD shall calculate the allocation of Operating Fund subsidies to the Agency in accordance with Attachment A.
    - b. The Agency may use these funds for any eligible activity permissible under Section 9(e)(1) of the 1937 Act or, if the Agency proposes to use the funding as part of a block grant in its Annual MTW Plan, it may use these funds for any eligible activity permissible under Section 8(o), 9(d)(1) and 9(e)(1) consistent with this MTW Agreement.
  2. Capital Funds and Other Grants
    - a. HUD shall calculate the allocation of Capital Fund grants (including replacement housing factor fund grants) to the Agency in accordance with Attachment A. Capital Funds will be disbursed in accordance with standard HUD procedures for the disbursement of public housing Capital Fund Grants.
      - (i) In requisitioning grant funds, the Agency will not be required to provide line item detail, but will request the funds using a single MTW line item; provided however, that the Agency may not accelerate draw downs of funds in order to fund reserves.

- (ii) The Agency may use these funds for any eligible activity permissible under Section 9(d)(1) of the 1937 Act, or if the Agency proposes to use the funding as part of a block grant in its Annual MTW Plan, it may use these funds for any eligible activity permissible under Section 8(o), 9(d)(1) and 9(e)(1) consistent with this MTW Agreement.
  - (iii) The Agency is subject to the requirements of Section 9(j) of the 1937 Act with respect to its Capital Fund Grants.
- b. Section 8 Tenant-Based Assistance
- (i) HUD shall calculate the allocation of Section 8 Housing Choice Voucher funding to the Agency in accordance with Attachment A.
  - (ii) The Agency may use tenant-based Section 8 funds included in the MTW block grant for any eligible activity permissible under Section 8(o) of the 1937 Act or, if the Agency proposes to use the funding as part of a block grant in its Annual MTW Plan, it may use the funds for any eligible activity permissible under Section 8(o), 9(d)(1) and 9(e)(1) consistent with this MTW Agreement.
- c. The Agency may submit for HUD consideration and approval alternative schedules for disbursement of public housing operating subsidy and Section 8 tenant-based funding to reduce the number of transactions and to address the time lag between making Housing Assistance Payments (HAP) for the large number of Section 8 participants from other jurisdictions (portables) and reimbursement by those jurisdictions. An Agency's request for consideration and approval of an alternative schedule for disbursement shall be subject to certain administrative limitations, such as only one request will be allowed per year.

## **VII. Administrative Responsibilities**

### **A. Annual MTW Planning and Reporting.**

#### **1. Annual MTW Plans**

- a. If the Agency has ten percent or more of its housing stock in MTW, the Agency will prepare and submit an Annual MTW Plan, in accordance with Attachment B, or equivalent HUD form as approved by OMB, in lieu of the Five (5) year and Annual Plans required by Section 5A of the 1937 Act.
- b. If the Agency has less than ten percent of its housing stock in MTW, the Agency will continue to complete the Five-Year and Annual Plans required by Section 5A of the 1937 Act. The Agency will also complete a Supplemental Annual MTW Plan, based on Attachment B, or equivalent HUD form as approved by OMB. Only information not included in either

the Five-Year Plan or the Annual Plan will need to be included in the Supplemental Annual MTW Plan (herein also referred to as the Annual MTW Plan).

- c. Three (3) copies of the Annual MTW Plan shall be submitted to HUD: one copy will be provided to HUD Headquarters in hard-copy, one copy to HUD Headquarters in electronic format (i.e., PDF, or Word), and one copy to the Agency's local HUD Field Office.
- d. The Annual MTW Plan is due not later than seventy-five (75) days prior to the start of the Agency's fiscal year, unless otherwise approved by HUD, except in the first year of this Agreement the Agency may submit an amendment to its MTW Plan if it wants to implement initiatives prior to the due date of the subsequent MTW Plan.
- e. Attachment B of this Agreement, or equivalent HUD form as approved by OMB, provides a detailed description of the required elements of the Annual MTW Plan.
- f. The Annual MTW Plan will be submitted to HUD only after:
  - (i) The Agency has provided for citizen participation through public hearing and other appropriate means and is approved by the Board of Commissioners or Directors, as applicable, and
  - (ii) The Agency has taken into account public comments on the program design, including comments from current tenants/participants, to the extent such comments were provided. To document the foregoing, the Agency will submit with the Annual MTW Plan documentation that at least one public hearing was held, that the Plan was available for public comment for at least thirty (30) days, and that the Agency took no less than fifteen (15) days between the public hearing and the 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. The Agency will submit these documents to HUD in accordance with Attachment B, or equivalent HUD form as approved by OMB, and will keep these documents on file for HUD review.
- g. HUD shall notify the Agency in writing if HUD objects to any provisions or information therein. When the Agency submits its Annual MTW Plan seventy-five (75) days in advance of its fiscal year, HUD will respond to the Agency within seventy-five (75) days. If HUD does not respond to the Agency within seventy-five (75) days after an on-time receipt of the Agency's Annual MTW Plan, the Agency's Annual MTW Plan is approved and the Agency is authorized to implement that Plan. If HUD does not receive the Agency's Annual MTW Plan seventy-five (75) days before the beginning of the Agency's fiscal year, the Agency's Annual MTW Plan is

not approved until HUD responds. Reasons that HUD may object to a provision or information in the Annual MTW Plan include, but are not limited to, the following:

- (i) The information required in Attachment B, or equivalent HUD form as approved by OMB, is not provided or is deemed insufficient;
  - (ii) The Agency's planned MTW activities are not permissible under MTW Authority or are inconsistent with requirements outside the 1937 Act<sup>3</sup>;
  - (iii) The Agency's planned MTW activities do not have a clear connection to the statutory goal of the MTW demonstration, which is to provide Agencies with the flexibility to design and test various approaches for providing and administering housing assistance that: (a) reduce cost and achieves greater cost effectiveness in Federal expenditures; (b) give incentives to families with children whose heads of household are either working, seeking work, or are participating in job training, educational or other programs that assist in obtaining employment and becoming economically self-sufficient; and (c) increase housing choices for low-income families; or
  - (iv) There are other good cause factors, such as material misrepresentation, in the submission.
- h. Once HUD approves an MTW Activity, the activity shall remain approved as long as it is included in the Agency's Annual MTW Plan submissions subsequent to the initial approval of the MTW Activity. The approval shall remain in effect until such time as the Agency proposes to modify the activity, initiative, or program.

## 2. Annual MTW Reports

- a. The Agency will prepare Annual MTW Reports, which will compare the Agency's activities with its Annual MTW Plan. The Annual MTW Report will provide the information necessary for HUD to assess the Agency's activities, in both regular operations and in activities authorized by MTW.
- b. Three (3) copies of the Annual MTW Report shall be submitted to HUD: one copy will be provided to HUD Headquarters in hard-copy, one copy to HUD Headquarters in electronic format (i.e., PDF, or Word), and one copy to the Agency's local HUD Field Office.
- c. The Annual MTW Report will be submitted to HUD for its review annually, no later than ninety (90) days after the end of the Agency's fiscal year.

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<sup>3</sup> Even if HUD approves a MTW Plan that is inconsistent with an external requirement, such as a state law requirement, the Agency is still subject to the external requirement.

- d. Attachment B of this Agreement, or equivalent HUD form as approved by OMB, provides a detailed description of the required elements of the Annual MTW Report.
  - e. HUD shall notify the Agency in writing if HUD requires additional information or clarifications to the information provided in the Annual MTW Report.
  - f. All HUD forms and other reporting mechanisms required by this Agreement, including any required certifications, will, where appropriate, be included in either the Annual MTW Plan or the Annual MTW Report.
3. HUD reserves the right to request, and the Agency agrees to provide, any information required by law or required for sound administration of the public housing and Section 8 Housing Choice Voucher programs.

**B. Other Data Submission Requirements.**

1. The Agency will submit HUD-50058 data and/or HUD-50058 MTW (or their replacement forms) data to HUD's Public and Indian Housing Information Center (PIC) system, or its successor. (Note that the use of the HUD-50058 MTW form is restricted to the MTW agencies that have implemented MTW Activities that prevent use of the standard 50058 form.) These submissions will be in compliance with HUD's 50058 and/or 50058 MTW submission requirements for MTW public housing authorities. The Agency will maintain current building and unit information in the development module of the PIC Inventory Management System (IMS).
2. The Agency will provide basic data about the Agency (e.g., address, phone number, e-mail address, etc.) to HUD through the PIC/IMS system, or its successor system.
3. The Agency will complete an annual audit pursuant to the Office of Management and Budget (OMB) Circular A-133 (including the Compliance Supplement, as determined by the auditor to be relevant to MTW). The A-133 Audit must be submitted to HUD in accordance with HUD regulations; a separate copy of the most recently completed audit must be submitted to the Office of Public Housing Investments, or its successor Headquarters Office responsible for national oversight of the MTW demonstration.
4. The Agency will provide data to HUD through FDS, or its successor system, as required by the Public Housing Assessment System (PHAS) regulations and procedures as they may be amended.
5. The Agency will provide HUD with an electronic version of the Admissions and Continued Occupancy Policy and Administrative Plan upon HUD's request.
6. The Agency will provide HUD with a Performance and Evaluation Report for Capital Fund activities not included in the MTW Block Grant by including this

as a supplement to Attachment B, or equivalent HUD form as approved by OMB.

In addition to the reporting requirements listed above, the Agency is required to comply with any and all HUD reporting requirements that are not specifically waived by HUD.

- C. Annual MTW Monitoring Site Visit. HUD and/or its contractors will conduct at least one formal Site Visit to the Agency each year. The purpose of these visits will be to confirm reported Agency activities, to review the status and effectiveness of the Agency's MTW strategies, and to identify and resolve outstanding MTW related issues. The Agency shall give HUD and/or its contractors unimpeded access to all requested sources of information including access to files, access to units, and an opportunity to interview Agency staff and assisted residents.
- D. Single Point of Contact. HUD and the Agency shall each appoint a liaison as a single point of contact in implementing the Agreement.

### **VIII. Termination and Default**

- A. If the Agency violates this Agreement, HUD is authorized to take any corrective or remedial action described in this Article VIII for Agency default. HUD will give the Agency written notice of any default. The Agency will have the opportunity to cure such default within 30 days of the date of said notice, or to demonstrate within said time period, by submitting substantial evidence satisfactory to HUD, that it is not in default. If the default is not susceptible to being cured within said 30 day period, the Agency will demonstrate, to HUD's satisfaction, that the Agency has taken actions necessary to cure the default and that the default is curable within 90 days from the date of the default notice. Additionally, the Agency must covenant to prosecute such cure diligently and complete such cure within the 90 day period, unless HUD, in its sole judgment, determines that immediate action is necessary, and therefore has discretion to institute the remedies under Section VIII.C. of this Agreement.
- B. The following are reasons that HUD may declare the Agency in default of this Agreement:
  1. The Agency has not corrected HUD identified performance deficiencies within a reasonable period of time;
  2. Material misrepresentation in the application process that led to the MTW Agreement;
  3. Use of funds subject to this Agreement for a purpose other than as authorized by this Agreement;
  4. Material noncompliance with legislative, regulatory, or other requirements applicable to this Agreement;
  5. Material breach of this Agreement; and/or

6. Material misrepresentation in the Annual MTW Plan or Report submission by the Agency.
- C. If the Agency is in default, HUD may, among other remedies, undertake any one or all of the following remedies:
1. Suspend payment or reimbursement for any MTW activities affected;
  2. Suspend the Agency's authority to make draws or receive or use funds for affected activities;
  3. Change the method of payment to the Agency;
  4. Require additional reporting by the Agency on the deficient areas and the steps being taken to address the deficiencies;
  5. Require the Agency to prepare and follow a HUD-approved schedule of actions and/or a management plan for properly completing the activities approved under this Agreement;
  6. Suspend the MTW waiver authorization for the affected activities;
  7. Prohibit payment or reimbursement for any MTW Activities affected by the default;
  8. Require reimbursement by the Agency to HUD for amounts used in violation of this Agreement;
  9. Reduce/offset the Agency's future funding;
  10. Terminate this Agreement and require the Agency to transition out of MTW;
  11. Take any other corrective or remedial action legally available; and/or
  12. Implement administrative or judicial receivership of part or all of the Agency.
- D. The Agency may choose to terminate this Agreement at any time. Upon HUD's receipt of written notification from the Agency and a copy of a board resolution approving termination, termination will be effective. The Agency will then begin to transition out of MTW, and will work with HUD to establish an orderly phase-out of MTW activities, consistent with Section IV C of this Agreement.

This Agreement, including all Attachments, is effective upon execution, except as otherwise provided herein.

HOUSING AUTHORITY OF THE  
CITY OF SAN JOSE

BY: 

ITS: EXECUTIVE DIRECTOR

Date: 02.28.08

UNITED STATES DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT

BY: 

ITS: Assistant Secretary

Date: 01.04.08

## **ATTACHMENT A**

### **Moving to Work Agreement**

#### **Calculation of Subsidies**

Upon execution of 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 City of San Jose (Agency), HUD will provide the Agency with operating subsidy, capital funds, and Housing Choice Voucher Program assistance as described below.

#### **A. Operating Subsidy**

1. The calculation of operating subsidy will continue in accordance with applicable operating subsidy formula law and regulations.
2. At the time of execution of the MTW Agreement, the Agency has no public housing.
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. At the time of execution of the MTW Agreement, the Agency has no public housing.
3. All funds programmed for MTW purposes will be recorded and drawn from MTW designated line items on relevant HUD forms.

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

1. For purposes of the Housing Choice Voucher Program (HCVP) funding, the Initial Year is calendar year 2008 (January 1, 2008 through December 31, 2008).
2. For purposes of the Housing Choice Voucher program funding, the base period for calculating initial funding is federal fiscal year 2007 (October 1, 2006 through September 30, 2007).
3. Initial year (CY 2008) HCVP housing assistance payments (HAP) subsidy will be based on the greater of actual HAP expenses incurred by the Agency as reported in the Voucher Management System (VMS) in the base period (FFY 2007) or what the Agency received in calendar year 2007. Initial year administrative fees will be based on what the Agency received in calendar year 2007.
4. Funding eligibility for the HCVP HAP in the Initial Year of this agreement will be equal to the amounts determined under the preceding paragraph, adjusted for new units not fully represented in those amounts, and adjusted by the Annual Adjustment Factor (AAF) and by the applicable proration factor. The Administrative Fee funding will be adjusted for new units and 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 December 31, 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. Funding for five-year mainstream vouchers, one-year mainstream vouchers and moderate rehabilitation vouchers, whether new allocations or renewals of existing vouchers, shall not be included in the MTW Block Grant.

11. The Agency will receive administrative fees to administer any incremental vouchers received, including Family Self Sufficiency funding, in accordance with laws and regulations in effect. Such fees will be calculated assuming all vouchers are in use.

12. The Agency's MTW funding for tenant based voucher assistance shall be based solely on dollars and not units.

**Attachment B**

**TO**  
**MOVING TO WORK AGREEMENT**  
**BETWEEN**  
**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**AND**  
**AGENCY**

**Elements for the Annual MTW Plan and Annual MTW Report**

All MTW Agencies will provide the following required elements in their Annual MTW Plans and Reports, consistent with the requirements of Section VII of the Agreement, and will follow the following order and format.

<u><b>Annual MTW Plan</b></u>	<u><b>Annual MTW Report</b></u>
<b>I. Introduction</b>	
A. Table of Contents, which includes all the required elements of the Annual MTW Plan; and	A. Table of Contents, which includes all the required elements of the Annual MTW Report; and
B. Overview of the Agency's MTW goals and objectives for the year, including new and ongoing MTW activities.	B. Overview of the Agency's ongoing MTW goals and objectives.

## II. General Housing Authority Operating Information

Please provide the following:

### A. Housing Stock Information

- Number of public housing units planned;
- General description of any planned significant capital expenditures by development;
- Description of any new public housing units to be added during the year by development (specifying bedroom size);
- Number of units to be removed from the inventory during the year by development specifying the justification for the removal;
- Number of Housing Choice Vouchers (HCV) units authorized;
- Number of HCV units to be project-based, including description of each separate project;
- General description of other housing planned to be managed by the Agency, specifying location, number of units, and type of non-public housing/non-HCV assistance (to include tax credit, state funded, project based Section 8, and market rate); and
- Description of other properties owned or managed by the Agency.

### B. Lease Up Information

- Anticipated number of public housing units planned to be leased;
- Anticipated number of HCV planned to be leased; and
- Description of anticipated issues relating to any potential difficulties in leasing units (HCV or public housing).

### C. Waiting List Information

- Description of anticipated changes in waiting lists (site-based, community-wide, HCV, merged);
- Description of anticipated changes in the number of families on the waiting list(s) and/or opening and closing of the waiting list(s); and
- Date the waiting list was last purged.

Please provide the following:

### A. Housing Stock Information

- Number of public housing units;
- Number of Housing Choice Vouchers utilized;
- General description of number and type of other housing managed by the Agency, specifying location, number of units and type of non-public housing/non-HCV assistance (to include tax credit, state funded, project based Section 8, and market rate); and
- Description of other properties owned or managed by the Agency.

### B. Lease Up Information

- Number of public housing units leased;
- Number of HCV under lease; and
- Description of issues relating to any difficulties in leasing units (HCV or public housing).

### C. Waiting List Information

- Description of waiting lists (site-based, community-wide, HCV, merged) and any changes that were made in the past fiscal year;
- Number of families on the waiting list(s), both at the beginning of the fiscal year and at the end of the fiscal year, and if the list(s) are open or closed; and
- Date the waiting list was last purged.

<u>Annual MTW Plan</u>	<u>Annual MTW Report</u>
<b>III. Long-term MTW Plan</b>	
Describe the Agency’s long-term vision for the direction of its MTW program, extending through the duration of the MTW Agreement.	Describe the Agency’s long-term vision for the direction of its MTW program, extending through the duration of the MTW Agreement.
<b>IV. Proposed MTW Activities: HUD approval requested</b> (provide the listed items below grouped by each MTW activity)	
<ul style="list-style-type: none"> <li>A. Describe each proposed MTW activity;</li> <li>B. Describe how each proposed activity relates to at least one of the three statutory objectives;</li> <li>C. Identify and discuss the anticipated impact of each proposed MTW activity on the stated objective;</li> <li>D. Describe the baselines and proposed benchmarks and metrics that the Agency will use to measure the performance and progress of the MTW activities;</li> <li>E. Describe the data collection process and the proposed metrics the Agency will use to measure how this activity will achieve one or more of the MTW statutory objectives;</li> <li>F. Cite the authorization(s) detailed in Attachment C or D of this Agreement that give the Agency the flexibility to conduct the activity, and include the specific citation(s) of the Act or regulation as identified in Attachment C or D of this Agreement that authorize the Agency to make the change; and</li> <li>G. Describe the hardship policy (for rent reform initiatives only).</li> </ul>	<p>(All proposed activities that are granted approval by HUD will be reported on in Section V as “ongoing activities.”)</p>

<u>Annual MTW Plan</u>	<u>Annual MTW Report</u>
<p><b>V. Ongoing MTW Activities: HUD approval previously granted</b>            (provide the listed items below grouped by each MTW activity)</p>	
<p>A. Describe each ongoing MTW activity applicable for the coming year;</p> <p>B. Describe how each ongoing activity relates to at least one of the three statutory objectives;</p> <p>C. Identify and discuss the anticipated impact of each ongoing MTW activity on the stated objective, if in the first year of completing this revised Plan; or any anticipated changes in the impact (as applicable), if in subsequent years;</p> <p>D. Describe the baselines and benchmarks that the Agency will use to measure the performance and progress of the MTW activities, if in the first year of completing this revised Plan; or any changes in benchmarks (as applicable), if in subsequent years;</p> <p>E. Describe the data collection process and metrics the Agency will use to measure how this activity will achieve one or more of the MTW statutory objectives, if in the first year of completing this revised Plan; or any changes in data collection (as applicable), if in subsequent years;</p> <p>F. Cite the authorization(s) detailed in Attachment C or D of this Agreement that give the Agency the flexibility to conduct the activity, and include the specific citation(s) of the Act or regulation as identified in Attachment C or D of this Agreement that authorize the Agency to make the change; and</p> <p>G. Describe the hardship policy (for rent reform initiatives only).</p>	<p>A. Describe any activities that were proposed in the Plan, approved by HUD, but not implemented, and discuss why these were not pursued;</p> <p>B. Describe each ongoing and completed (within the FY) MTW activity;</p> <p>C. Describe how each ongoing activity relates to at least one of the three statutory objectives;</p> <p>D. Analyze the actual impact of each ongoing MTW activity on the stated objective;</p> <p>E. Evaluate the actual performance versus the target benchmark goals, the originally established baseline, and the previous year's performance;</p> <p>F. If benchmarks were not achieved or if the activity was determined ineffective provide a narrative explanation of the challenges, and, if possible, identify potential new strategies that might be more effective;</p> <p>G. Using the metrics proposed in the Plan, evaluate the effectiveness of the activity in achieving the statutory objectives it relates to; and</p> <p>H. Cite the specific provision(s) of the Act or regulation that is waived under MTW (as detailed in Attachment C or D of this Agreement) that authorized the Agency to make the change, and briefly describe if and how the waived section of the Act or regulation was necessary to achieve the benchmark.</p>

<u>Annual MTW Plan</u>	<u>Annual MTW Report</u>
<b>VI. Sources and Uses of Funding</b>	
<p>A. Provide Consolidated Budget Statement in the same format and level of detail as the unaudited financial statement;</p> <p>B. Planned sources and expenditures by development;</p> <p>C. Description of changes in sources and uses of MTW funding from previously-approved plan; and</p> <p>D. Description of how funding fungibility is planned to be used, if applicable.</p>	<p>A. Unaudited Financial Statement;</p> <p>B. Planned vs. actual financial information by development with a narrative discussion and explanation of the differences;</p> <p>C. Planned vs. actual for all capital activities presented in the Annual MTW Plan with a narrative discussion and explanation of differences;</p> <p>D. Explanation of how funding fungibility was used and narrative explanation of the difference, if applicable.</p>
<b>VII. Administrative</b>	
<p>The Agency will provide the following:</p> <p>A. Board Resolution adopting 50077-MTW, or equivalent form;</p> <p>B. Documentation that at least one public hearing was held, that the Plan was available for public comment for at least thirty (30) days, and documentation that the Agency took into consideration public and resident comment 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;</p> <p>C. Description of any planned or ongoing Agency-directed evaluations of the demonstration, if applicable;</p>	<p>The Agency will provide the following:</p> <p>A. Results of latest Agency-directed evaluations of the demonstration, as applicable;</p> <p>B. Performance and Evaluation Report for Capital Fund activities not included in the MTW Block Grant, as an attachment to the Report; and</p> <p>C. Description of progress on the correction or elimination of observed deficiencies cited in monitoring visits, physical inspections, submissions to REAC, or other oversight and monitoring mechanisms, if applicable.</p>

**VIII. Reporting Compliance with Statutory MTW Requirements**

**Annual MTW Plan** If the Agency has been out of compliance with any of the required statutory MTW requirements listed in Section II(C) of the Agreement, as determined by HUD in its review of the previous fiscal year’s Annual MTW Report, the Agency will provide a narrative discussion and a plan as to how it will return to compliance. If the Agency is currently in compliance, no discussion or reporting is necessary in this section.

**Annual MTW Report** The Agency will provide the following:  
 A. In order to demonstrate that the statutory objective of “assuring that at least 75 percent of the families assisted by the Agency are very low-income families” is being achieved, the Agency will provide information in the following format:

**Initial Incomes of Families Assisted by MTW**

Fiscal Year:	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total number of newly admitted families assisted <sup>1</sup>											
Number of families with incomes below 50% of area median											
Percentage of families with incomes below 50% of area median											

<sup>1</sup> “Total number of newly admitted families assisted” is defined as all families that have been admitted to federal housing assistance during the fiscal year in question. Therefore, this does not mean that all families assisted by the housing authority will be captured in this figure. Instead, the figure only captures the initial admittees’ income, just as they begin to receive housing assistance.

**VIII. Reporting Compliance with Statutory MTW Requirements, Continued**

**Annual  
MTW  
Report,  
cont.**

B. In order to demonstrate that the statutory objective of “continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined” is being achieved, the Agency will provide information in the following formats:

**Baseline for the Number of Eligible Low-Income Families to Be Served**

	<b>Number of families served when Agency entered MTW</b>	<b>Non-MTW adjustments to the number of families served<sup>2</sup></b>	<b>Baseline number of families to be served</b>	<b>Explanations for adjustments to the number of families served</b>
Number of public housing families served				
Number of tenant-based Section 8 families served				
Total number of families served				

**Number of Low-Income Families Served**

<b>Baseline number of families to be served (total number of families)<sup>3</sup></b>	
<b>Total number of families Served this Fiscal Year<sup>4</sup></b>	
<b>Numerical Difference<sup>5</sup></b>	
<b>Percentage Difference</b>	

**Justification for variations in excess of 10% below the baseline number of families to be served (total number of families):**

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<sup>2</sup> “Non-MTW adjustments to the number of families served” are defined as factors that are outside the control of the Agency. Acceptable “non-MTW adjustments” include, but are not limited to, influences of the economy and of the housing market. If the Agency includes non-MTW adjustments, HUD expects the explanations of the factors to be thorough and to include information substantiating the numbers used.

<sup>3</sup> This number will be the same number in the chart above, at the cross-section of “total number of families served” and “baseline number of families served.”

<sup>4</sup> The methodology used to obtain this figure will be the same methodology used to determine the “Number of families served when Agency entered MTW” in the table immediately above.

<sup>5</sup> The Numerical Difference is considered “MTW adjustments to the number of families served.” This number will reflect adjustments to the number of families served that are directly due to decisions the Agency has made. HUD expects that in the course of the demonstration, Agencies will make decisions that may alter the number of families served.

**VIII. Reporting Compliance with Statutory MTW Requirements, Continued**

**Annual  
MTW  
Report,  
cont.**

C. In order to demonstrate that the statutory objective of “maintaining a comparable mix of families (by family size) are served, as would have been provided had the amounts not been used under the demonstration” is being achieved, the Agency will provide information in the following formats:

**Baseline for the Mix of Family Sizes to Be Served**

Family Size	Occupied number of Public Housing units by family size when Agency entered MTW	Utilized number of Section 8 vouchers by family size when Agency entered MTW	Non-MTW adjustments to the distribution of family sizes <sup>6</sup>	Baseline number of family sizes to be maintained	Baseline percentages of family sizes to be maintained
1 person					
2 people					
3 people					
4 people					
5 people					
6+ people					
Totals					100%

<b>Explanations for Baseline adjustments to the distribution of family sizes utilized</b>	
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**Mix of Family Sizes Served**

	1 person	2 people	3 people	4 people	5 people	6+ people	Total
<b>Baseline percentages of family sizes to be maintained<sup>7</sup></b>							100%
<b>Number of families served by family size this Fiscal Year<sup>8</sup></b>							
<b>Percentages of families served by family size this Fiscal Year<sup>9</sup></b>							100%
<b>Percentage Difference</b>							

<b>Justification and explanation for family size variations of over 5% from the Baseline percentages:</b>

<sup>6</sup> “Non-MTW adjustments to the distribution of family sizes” are defined as factors that are outside the control of the Agency. Acceptable “non-MTW adjustments” include, but are not limited to, demographic changes in the community’s population. If the Agency includes non-MTW adjustments, HUD expects the explanations of the factors to be thorough and to include information substantiating the numbers used.

<sup>7</sup> These numbers in this row will be the same numbers in the chart above listed under the column “Baseline percentages of family sizes to be maintained.”

<sup>8</sup> The methodology used to obtain these figures will be the same methodology used to determine the “Occupied number of Public Housing units by family size when Agency entered MTW” and “Utilized number of Section 8 Vouchers by family size when Agency entered MTW” in the table immediately above.

<sup>9</sup> The “Percentages of families served by family size this fiscal year” will reflect adjustments to the mix of families served that are directly due to decisions the Agency has made. HUD expects that in the course of the demonstration, Agencies will make decisions that may alter the number of families served.

**ATTACHMENT C****STATEMENT OF AUTHORIZATIONS****TO  
MOVING TO WORK AGREEMENT  
BETWEEN  
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND  
AGENCY****A. General Conditions**

1. This Statement of Authorizations describes the activities that the Public Housing Authority (Agency) may carry out under the Moving to Work (MTW) Demonstration program, subject to the terms and conditions of the Moving to Work Demonstration Agreement (Agreement) between the Agency and the U.S. Department of Housing and Urban Development (HUD).
2. Unless otherwise provided in Attachment D of the Agreement, the Agency's MTW Demonstration Program applies to all of the Agency's public housing assisted units (including Agency-owned properties and units comprising a part of mixed-income, mixed finance communities) tenant-based Section 8 voucher assistance (hereinafter referred to as the "Housing Choice Voucher Program"), Section 8 project-based voucher assistance under Section 8(o) and Homeownership units developed using Section 8(y) voucher assistance.
3. The purpose of the Statement of Authorizations is to delegate to the Agency the authority to pursue locally driven policies, procedures and programs with the aim of developing better, more efficient ways to provide housing assistance and incentives to self-sufficiency to low, very-low, and extremely low-income families. The authorizations listed in this Attachment C are granted fully without requiring any additional HUD authorizations, as necessary to implement the activities described in the Annual MTW Plan. The Agency may proceed with activities based upon these authorizations once the activity has been included in the Annual MTW Plan, in accordance with Attachment B, and HUD has approved the Plan and activities. HUD will review and approve these documents to ensure that the Annual MTW Plan has provided meaningful citizen participation, taking into account comments from a public hearing and any other comments on the proposed program, as well as providing for, receiving, and meaningfully considering comments from current and prospective residents who would be affected. HUD will also review in order to ascertain that these activities are within the MTW authorizations provided by HUD.
4. The Agency reaffirms that it will comply with all applicable nondiscrimination and equal opportunity requirements set forth in 24 CFR 5.105(a), and will administer its programs and activities in a manner affirmatively to further fair housing. In particular, the Agency

must make reasonable modifications and accommodations needed by applicants and residents and must make units accessible in accordance with the Needs Assessment and Transition Plan as required under Section 504 of the Rehabilitation Act of 1973 and its implementing regulations.

**B. Authorizations Related to Both Public Housing and Section 8 Housing Choice Vouchers**

1. Single Fund Budget with Full Flexibility

*This authorization waives certain provisions of Sections 8 and 9 of the 1937 Act and 24 C.F.R. 982, and 990 as necessary to implement the Agency's Annual MTW Plan.*

- a. The Agency may combine funding awarded to it annually pursuant to Section 8(o), 9(d) and 9(e) of the 1937 Act into a single, authority-wide funding source ("MTW Funds"). However, section 9(d) funds are still subject to the obligation and expenditure deadlines and requirements provided in section 9(j) despite the fact that they are combined in a single fund. The funding amount for the MTW Funds may be increased by additional allocations of housing choice vouchers to which the Agency is entitled over the term of the Agreement. Special purpose vouchers will not be included in the MTW Funds during their initial term, though some may be included in the MTW Funds upon renewal.
- b. The Agency may use MTW Funds for any eligible activity under Sections 9(d)(1), 9(e)(1) and Section 8(o) of the 1937 Act. Within the scope of the permissible eligible activities, the Agency can carry out the purposes of the MTW Demonstration Program to provide flexibility in the design and administration of housing assistance to eligible families, to reduce cost and achieve greater cost effectiveness in Federal expenditures, to give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient, and to increase housing choices for low-income families, through activities that would otherwise be eligible under sections 8 and 9 of the 1937 Act, including, but not limited to, the following activities:
  - i. Provision of Capital funds or operating assistance to housing previously developed or operated pursuant to a contract between HUD and the Agency or newly acquired or developed pursuant to section ii below.
  - ii. The acquisition, new construction, reconstruction or moderate or substantial rehabilitation of housing (including, but not limited to, assisted living, or other housing as deemed appropriate by the Agency, in accordance with its mission), or commercial facilities consistent with the objectives of the demonstration. Such activities may include but are not limited to real property acquisition, site improvement, development of utilities and utility services and energy efficiency systems, conversion, demolition, financing, administration and planning costs, relocation and other related activities; provided, however, that prior HUD

approval is required for the development of any incremental public housing units, pursuant to Section 9(g)(3) of the 1937 Act.

- iii. The provision of housing or employment-related services or other case management activities, such as housing counseling in connection with rental or homeownership assistance, energy auditing, activities related to the provision of self-sufficiency and other services, employment counseling, education, training and other services related to assisting tenants, owners, contractors, and other persons or entities participating or seeking to participate in other housing or training and educational activities assisted pursuant to this section.
  - iv. The provision of management services, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant and project-based rental assistance and management of housing projects or other facilities or operations developed under this program.
  - v. The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of housing from crime.
  - vi. The provision of Housing Choice Voucher assistance or project-based rental assistance (under Section 8(o)), alone or in conjunction with other private or public sources of assistance.
  - vii. The preservation of public housing and/or Housing Choice Voucher units currently serving people of low income or the acquisition and/or development of new units for people of low income, provided that all rehabilitation and construction is done in accordance with the requirements of Section 504 of the Rehabilitation Act and where applicable, the design and construction requirements of the Fair Housing Act.
  - viii. If the Agency chooses to establish single fund flexibility, the Agency is authorized to use housing assistance payments for purposes other than payments to owners, so long as these purposes are consistent with other eligible uses of section 8 and section 9 funds.
- c. These activities may be carried out by the Agency, by an entity, agent, or instrumentality of the Agency, a partnership, a grantee, contractor, or other appropriate party or legal entity.
  - d. The Agency's expenditures must comply with OMB Circular A-87, which provides basic guidelines for the use of federal funds, and with this MTW Agreement.
  - e. The Agency may use capital funds (including development and replacement housing factor funds) in accordance with this Agreement.

2. Partnerships with For-Profit and Non-Profit Entities

The Agency may partner with for-profit and non-profit entities, subject to 24 C.F.R. Part 85 and 941.602(d), including, mixed-income, mixed-finance development partners and third party management companies, as well as affiliates and instrumentalities of the Agency (“Agency Partners”), to implement and develop all or some of the initiatives that may comprise the Agency’s MTW Demonstration Program. The Agency may, with respect to MTW eligible activity and when working with or partnering with such partners, make available to Agency Partners the least restrictive regulatory requirements allowable based on Agency’s participation in the MTW Demonstration Program and that agreements with Agency Partners may reflect the implementation of less restrictive regulatory requirements. *This authorization waives certain provisions of Sections 13 and 35 of the 1937 Act and 24 C.F.R. 941 Subpart F as necessary to implement the Agency’s Annual MTW Plan.*

3. Definition of Elderly Family

The Agency is authorized to amend the definition of elderly to include families with a head of household or family member who is at least 55 years old, and must be in compliance with the all Fair Housing Requirements, in particular the Housing for Older Persons Act of 1995. *This authorization waives certain provisions of Section 3 (b)(3) and (G) of the 1937 Act and 24 C.F.R. 5.403 as necessary to implement the Agency’s Annual MTW Plan.*

4. Transitional/Conditional Housing Program

The Agency may develop and adopt new short-term transitional housing programs, consistent with an eligible use of section 8 and 9 funds, with supportive services in one or more buildings in collaboration with local community-based organizations and government agencies. Successful participants in these programs will be eligible for transfer to the Agency’s public housing or housing choice voucher programs. The Agency will ensure that these programs do not have a disparate impact on protected classes, and will be operated in a manner that is consistent with the requirements of Section 504 of the Rehabilitation Act. More specifically, under no circumstances will residents of such programs be required to participate in supportive services that are targeted at persons with disabilities in general, or persons with any specific disability. In addition, admission to any of the programs developed under this section will not be conditioned on the presence of a disability or a particular disability. This section is not intended to govern the designation of housing that is subject to Section 7 of the 1937 Act. *This authorization waives certain provisions of Sections 3, 4, 5, 8, and 9 of the 1937 Act and 24 C.F.R. 941, and 960 Subpart B as necessary to implement the Agency’s Annual MTW Plan.*

5. Investment Policies

Subject to HUD approval, the Agency is authorized to adopt investment policies consistent with state law to the extent such policies are in compliance with applicable OMB circulars and other federal laws. The Agency shall invest only in securities authorized under state law that will allow the flexibility to invest productively and efficiently. *This authorization waives certain provisions of Section 6(c)(4) of the 1937 Act and 24 C.F.R. 982.156 as necessary to implement the Agency’s Annual MTW Plan.*

### C. Authorizations Related to Public Housing Only

#### 1. Site Based or Geographic Area Waiting List System

The Agency is authorized to implement a locally designed waiting list system in lieu of the specific procedural requirements of 24 C.F.R. Part 903 provided that it provides applicants with a reasonable choice of location in accordance with title VI of the Civil Rights Act, the Fair Housing Act, and other applicable civil rights requirements. The Agency may implement additional site-based waiting lists under this MTW Agreement. Such additional site-based waiting lists will be developed, at the Agency's option, to address various situations, including, but not limited to the following: (1) any existing or new or mixed-income, mixed finance communities; (2) any on-site and/or off-site public housing replacement units developed in support of the Agency's redevelopment or HOPE VI efforts, if any; (3) any specially designated public housing or project-based communities; and (4) combining or separating waiting lists for Section 8 tenant-based or project-based assistance, public housing rental communities, homeownership opportunities, and mixed-income, mixed-finance communities. *This authorization waives certain provisions of Section 6(r) of the 1937 Act and 24 C.F.R. 903.7 as necessary to implement the Agency's Annual MTW Plan.*

#### 2. Local Preferences and Admission and Continued Occupancy Policies and Procedures

The Agency is authorized to develop and adopt local preferences and admission policies and procedures for admission into the public housing program in lieu of HUD statutes, regulations or other requirements based in the 1937 Act so long as the families assisted qualify as low income, and that the total mix of families assisted meets the requirements of part I.C of the MTW Agreement. The Agency is required to revise the Admissions and Continued Occupancy Policy (ACOP), to implement changes in public housing occupancy policy as a result of the MTW program. Regardless of changes to the Agency's adopted ACOP policies and procedures, the Agency must comply with Sections I(B)(1) and II(D) of this Agreement. The Agency is subject to state and local preferences law. *This authorization waives certain provisions of Section 3 of the 1937 Act and 24 C.F.R. 960.206 as necessary to implement the Agency's Annual MTW Plan.*

#### 3. Deconcentration Policy

The Agency is authorized to develop and adopt a local policy designed to provide for deconcentration and income mixing in public housing communities. *This authorization waives certain provisions of Section 16(3)(B) of the 1937 Act and 24 C.F.R. 903.2 as necessary to implement the Agency's Annual MTW Plan.*

#### 4. Initial, Annual and Interim Income Review Process

The Agency is authorized to restructure the initial, annual and interim review process in the public housing program in order to affect the frequency of the reviews and the methods and process used to establish the integrity of the income information provided. In addition, the Agency is expressly authorized to adopt a local system of income verification in lieu of the current HUD system. For example, the Agency may implement alternate time frames for validity of verification or adopt policies for verification of income and assets through sources other than those currently allowed under the 1937 Act. *This authorization waives certain provisions of sections 3(a)(1) and 3(a)(2) of the 1937*

*Act and 24 C.F.R. 966.4 and 960.257, as necessary to implement the Agency's Annual MTW Plan.*

5. Use of Public Housing as an Incentive for Economic Progress

The Agency is authorized to modify current public housing occupancy policies to use housing as an incentive for making economic progress, as long as Section II.C. of the MTW Agreement is adhered to. Such modifications may include revising maximum income limits for admission or continued occupancy. Families denied admission or continued occupancy shall continue to be entitled to the right to an informal hearing. *This authorization waives certain provisions of Section 6(c) of the 1937 Act and 24 C.F.R. 960.201, as necessary to implement the Agency's Annual MTW Plan.*

6. Incentives for Underutilized Developments

The Agency is authorized to develop and offer incentives that will attract applicants to developments, or portions thereof, which have been difficult to market. *This authorization waives certain provisions of Section 3(a)(2) and 3(a)(3)(A) of the 1937 Act and 24 C.F.R. 960 subpart B as necessary to implement the Agency's Annual MTW Plan.*

7. Simplification of the Development and Redevelopment Process for Public Housing

*This authorization waives certain provisions of Sections 4, 5, 9, 24, 32 and 35 of the 1937 Act and 24 C.F.R. 941 as necessary to implement the Agency's Annual MTW Plan.*

a. The Agency may, at its own discretion, allow any authorizations and regulatory relief granted to the Agency pursuant to this MTW Agreement to inure to the benefit of the Agency's Partners with respect to MTW eligible activities, and HUD hereby agrees to the amendment of any and all evidentiaries necessary to implement the least restrictive regulatory requirements allowable.

b. The Agency is authorized to establish reasonable low-income homeownership programs, such as a lease-to-own program, that are not limited by the existing public housing homeownership requirements, provided that units can only be sold to current public housing residents and that any disposition of current public housing units must be approved in advance by HUD. Any disposition application will be submitted and processed in accordance with this Agreement.

8. Streamlined Demolition and Disposition Procedures

The Agency may choose to follow HUD's "Streamlined Processing Instructions for Disposition, Demolition, and Disposition/Demolition Applications from MTW Agencies."

9. Simplification of Property Management Practices

The Agency is authorized to simplify property management practices as follows:

a. The Agency is authorized to deploy a risk management approach in establishing property and system inspection protocols and frequencies in lieu of the HUD requirements of annual inspections by Agencies, as long as these protocols assure that housing units assisted under the demonstration meet housing quality standards approved or established by the Secretary. *This authorization waives certain provisions of Section 6 (f) of the 1937 Act and 24 C.F.R. 902-Subpart B as necessary to implement the Agency's Annual MTW Plan.*

- b. The Agency is authorized to develop and adopt a new form of local lease and establish community rules, grievance procedures, tenant self-sufficiency requirements and reasonable tenant fees based on proven private management models (subject to State and local laws), provided that no-cause evictions are not permitted. *This authorization waives certain provisions of Section 6 (l) of the 1937 Act and 24 C.F.R. 966 Subparts A and B as necessary to implement the Agency's Annual MTW Plan.*

10. Special Admissions and Occupancy Policies for Certain Public Housing Communities

The Agency is authorized to involve a broad spectrum of community stakeholders, including advocacy groups, in a process to explore and adopt reasonable restrictions for occupancy of specific public housing buildings in the Agency's inventory. Buildings, or portions of buildings (floors, units), may be designated as Smoke-Free, Pet-Free or Assisted Living (or other similar reservations). The Agency may establish admissions preferences in order to establish these special occupancy requirements. A key goal of this initiative will be to ensure that the Agency is able to maintain and improve the quality of life in the Agency communities. These reservations or policies must not have a disparate impact on protected classes and must be operated in a manner that is consistent with the requirements of Section 504 of the Rehabilitation Act. Any such designations or policies will include adequate safeguards for the disabled, including protections for disabled persons who are Agency residents and those seeking housing assistance. Residents can voluntarily participate in any of the services provided. Once adopted, the designations or policies will be updated and reviewed as part of the Annual MTW Plan and Report submitted by the Agency for HUD's review. In particular, the Agency will review the demographic make-up of its current resident population and applicants to assess the need for and support any changes to its designations or policies. *This authorization waives certain provisions of Sections 3, 6, 7, 16, and 31 of the 1937 Act and 24 C.F.R. 945 subpart C, 960 Subparts B, D, E and G as necessary to implement the Agency's Annual MTW Plan.*

11. Rent Policies and Term Limits

The Agency is authorized to determine family payment, including the total tenant payment, the minimum rent, utility reimbursements and tenant rent. The Agency is authorized to adopt and implement any reasonable policies for setting rents in public housing including but not limited to establishing definitions of income and adjusted income, or earned income disallowance that differ from those in current statutes or regulations. The Agency is authorized to adopt and implement term limits for its public housing assistance. Such policies must include provisions for addressing hardship cases. *This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 C.F.R. 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A as necessary to implement the Agency's Annual MTW Plan.*

12. Design Guidelines

The Agency is authorized to establish reasonable and modest design guidelines, unit size guidelines and unit amenity guidelines for development and redevelopment activities that will replace HUD guidelines with guidelines that reflect local marketplace conditions for quality construction in its locality so long as all units meet housing quality standards approved by the Secretary. *This authorization waives certain provisions of Sections 4, 5, and 9 of the 1937 Act and 24 C.F.R. 941.202, 941.203, 941.401, and 941.403 as*

*necessary to implement the Agency's Annual MTW Plan.*

13. Site Acquisition

The agency is authorized to acquire sites without prior HUD approval, provided that the agency certifies that HUD site selection requirements have been met. *This authorization waives certain provisions of 24 C.F.R. 941.401 as necessary to implement the Agency's Annual MTW Plan.*

14. Commercial Business Venture

The Agency is authorized to enter into commercial business ventures as part of its neighborhood revitalization or affordable housing strategies or other strategies designed to serve as catalysts for revitalization of public housing or surrounding communities. Any venture must be consistent with eligible uses of funds under Sections 8 and 9 of the 1937 Act. *This authorization waives certain provisions of 24 C.F.R. 941 subpart F as necessary to implement the Agency's Annual MTW Plan.*

15. Available Property

The Agency is authorized to make available public housing property including dwelling and non-dwelling spaces and vacant land for the purpose of providing services, programs and capital improvements that benefit residents and program participants. *This authorization waives certain provisions of Section 9 of the 1937 Act and 24 C.F.R. 990 Subpart B as necessary to implement the Agency's Annual MTW Plan.*

16. Total Development Cost (TDC) limits

The agency is authorized to establish reasonable cost formulas for development and redevelopment activities that will replace HUD's TDC limits in order to reflect local marketplace conditions for quality construction in its locality. *This authorization waives certain provisions of Section 6(b) of the 1937 Act and 24 C.F.R. 941.306 as necessary to implement the Agency's Annual MTW Plan.*

**D. Authorizations Related to Section 8 Housing Choice Vouchers Only**

1. Operational Policies and Procedures

The Agency is authorized to determine the following basic operational policies and procedures for all Section 8 assistance the Agency is provided under section 8(o) of the 1937 Act:

- a. The Agency is authorized to determine the term and content of Housing Assistance Payment (HAP) contracts to owners during the term of the MTW demonstration. However, any revised HAP contract must include language noting that the funding for the contract is subject to the availability of Appropriations. *This authorization waives certain provisions of Section 8(o)(7) of the 1937 Act and 24 C.F.R. 982.162 as necessary to implement the Agency's Annual MTW Plan;*
- b. The Agency is authorized to determine the length of the lease period, when vouchers expire and when vouchers will be reissued. *This authorization waives certain provisions of Sections 8(o)(7)(a), 8(o)(13)(F) and 8(o)(13)(G) of the 1937 Act and 24 C.F.R. 982.303, 982.309 and 983 Subpart F as necessary to implement the Agency's Annual MTW Plan;*

- c. The Agency is authorized to define, adopt and implement a reexamination program that differs from the reexamination program currently mandated in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Section 8(o)(5) of the 1937 Act and 24 C.F.R. 982.516 as necessary to implement the Agency's Annual MTW Plan;*
- d. The Agency is authorized to determine a damage claim and/or vacancy loss policy and payment policy for occupied units that differs from the policy requirements currently mandated in the 1937 Act and its implementing regulations. Damage and vacancy authority are subject to state and local laws. *This authorization waives certain provisions of Section 8(o)(9), of the 1937 Act and 24 C.F.R. 982.311 as necessary to implement the Agency's Annual MTW Plan;*
- e. The Agency is authorized to determine the percentage of housing voucher assistance that it is permitted to project-base, and criteria for expending funds for physical improvements on those units that differs from the percentage and criteria requirements currently mandated in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Section 8(o)(13) of the 1937 Act and 24 C.F.R. 983 as necessary to implement the Agency's Annual MTW Plan;*
- f. The Agency is authorized to determine property eligibility criteria, including types of units currently prohibited by Section 8 regulations, as well as shared living facilities. If the Agency chooses to use this authorization, it will need to provide a transition plan to both the affected residents and HUD prior to the end of the demonstration. *This authorization waives certain provisions of Section 8(p) of the 1937 Act and 24 C.F.R. 983.53-54 and 982 Subparts H and M as necessary to implement the Agency's Annual MTW Plan; and*
- g. The Agency is authorized to establish its own portability policies with other MTW and non-MTW housing authorities. *This authorization waives certain provisions of Section 8(r) of the 1937 Act and 24 C.F.R. 982 Subpart H as necessary to implement the Agency's Annual MTW Plan.*

## 2. Rent Policies and Term Limits

- a. The Agency is authorized to adopt and implement any reasonable policy to establish payment standards, rents or subsidy levels for tenant-based assistance that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. The Agency is authorized to adopt and implement any reasonable policies to calculate the tenant portion of the rent that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Sections 8(o)(1), 8(o)(2), 8(o)(3), 8(o)(10) and 8(o)(13)(H)-(I) of the 1937 Act and 24 C.F.R. 982.508, 982.503 and 982.518, as necessary to implement the Agency's Annual MTW Plan;*

- b. The Agency is authorized to determine contract rents and increases and to determine the content of contract rental agreements that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Sections 8(o)(7) and 8(o)(13) of the 1937 Act and 24 C.F.R. 982.308, 982.451 and 983 Subpart E as necessary to implement the Agency's Annual MTW Plan;*
- c. The Agency is authorized to develop a local process to determine rent reasonableness that differs from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Section 8(o)(10) of the 1937 Act and 24 C.F.R. 982.507 as necessary to implement the Agency's Annual MTW Plan;* and
- d. The Agency is authorized to implement term limits for HCV units designated as part of the MTW demonstration. *This authorization waives certain provisions of Sections 8(o)(7) and 8(o)(13)(F)-(G) of the 1937 Act and 24 C.F.R. 982 Subpart L and 983 Subpart E as necessary to implement the Agency's Annual MTW Plan.*

### 3. Eligibility of Participants

- a. The Agency is authorized to determine income qualifications for participation in the rental assistance program that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations, as long as the requirements that i) at least 75 percent of those assisted under the demonstration are "very low-income" as defined in section 3(b)(2) of the 1937 Act, ii) substantially the same number of low-income persons are assisted under the demonstration as would be without the MTW authorizations contained herein, and iii) a comparable mix of families are assisted under the Agreement as would have been otherwise in Section I.C. of the MTW Agreement are met. *This authorization waives certain provisions of Sections 16(b) and 8(o)(4) of the 1937 Act and 24 C.F.R. 5.603, 5.609, 5.611, 5.628, and 982.201 as necessary to implement the Agency's Annual MTW Plan;* and
- b. The Agency is authorized to adopt and implement any reasonable policy for verifying family income and composition and for determining resident eligibility that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of 24 C.F.R. 982.516 and 982 Subpart E, as necessary to implement the Agency's Annual MTW Plan.*

### 4. Waiting List Policies

The Agency is authorized to determine waiting list procedures, tenant selection procedures and criteria and preferences, including authorizing vouchers for relocation of witnesses and victims of crime that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. *This authorization waives certain provisions of Sections 8(o)(6), 8(o)(13)(J) and 8(o)(16) of the 1937 Act*

and 24 C.F.R. 982 Subpart E, 982.305 and 983 Subpart F as necessary to implement the Agency's Annual MTW Plan.

5. Ability to Certify Housing Quality Standards

The Agency is authorized to certify that housing assisted under MTW will meet housing quality standards established or approved by HUD. The certification form will be approved or provided by HUD. *This authorization waives certain provisions of Section 8(o)(8) of the 1937 Act and 24 C.F.R. 982, Subpart I as necessary to implement the Agency's Annual MTW Plan.*

6. Local Process to Determine Eligibility

The Agency is authorized to adopt a local process for determining whether units meet certain eligibility requirements, provided such requirements are part of the 1937 Act. *This authorization waives certain provisions of Section 8(o)(13) of the 1937 Act and 24 C.F.R. 983 Subpart D as necessary to implement the Agency's Annual MTW Plan.* This includes, but is not limited to, the following:

- a. The minimum expenditure requirement and the timing of rehabilitation and construction of units.
- b. The type of funds that may be used to rehabilitate or construct units.
- c. Procedures to determine whether or not units meet the Agency's requirements regarding rehabilitation and construction, including what information is required to be submitted by owners to the Agency.

7. Establishment of an Agency MTW Section 8 Project-Based Program

The Agency is authorized to develop and adopt a reasonable policy and process for project-basing Section 8 tenant-based leased housing assistance, which includes the components set forth below:

- a. The Agency is authorized to project-base Section 8 assistance at properties owned directly or indirectly by the Agency that are not public housing, subject to HUD's requirements regarding subsidy layering. If the Agency chooses to project-base Section 8 assistance at such properties, the Agency recognizes and accepts that such units would no longer be eligible for operating subsidy provided under Section 9(e) of the 1937 Housing Act or for future capital funds provided under section 9(d) for those units if it chooses to use this authorization. Project-based assistance for such owned units does not need to be competitively bid, nor are the owned units subject to any required assessments for voluntary conversion. *This authorization waives certain provisions of Sections 8(o)(13)(B and D) of the 1937 Act and 24 C.F.R. 982.1, 982.102 and 24 C.F.R. Part 983 as necessary to implement the Agency's Annual MTW Plan;*
- b. The Agency is authorized to establish a reasonable competitive process or utilize an existing local competitive process for project-basing leased housing assistance at units that meet existing Housing Quality Standards, or any standards developed by the Agency pursuant to this MTW Agreement and approved by the Secretary, and that are owned by non-profit, or for-profit housing entities. *This authorization waives certain provisions of 24 C.F.R. 983.51 as necessary to implement the*

*Agency's Annual MTW Plan;*

- c. The Agency is authorized to duly adopt, according to the requirements of local law, alternate standards for determining the location of existing, newly constructed or substantially rehabilitated housing to receive subsidy; provided, however, *that in lieu of the Site Selection Standards currently set forth in 24 C.F.R. Section 983.57*, the agency will comply with the following requirements:
  - i. The Agency will comply with the Fair Housing Act and Title VI of the Civil Rights Act of 1964, and implementing regulations thereto, in determining the location of newly constructed or acquired public housing units.
  - ii. Units may be located in the agency's jurisdiction, including within, but not limited to, the following types of urban areas: (1) an area of revitalization that has been designated as such by the governing jurisdiction, including Redevelopment Areas and Enhanced Enterprise Communities, (2) an area where public housing units were previously constructed and were demolished, (3) a racially or economically impacted area where the agency plans to preserve existing affordable housing, (4) in connection with a HOPE VI or other HUD funded master planned development, (5) in areas where a needs analysis indicates that subsidized housing represents a low percentage of the total number of housing units in the area, or (6) relocating units to an area with a lower concentration of public housing units.
  - iii. Conduct a housing needs analysis indicating that there is a real need for the housing in the area; and
  - iv. When developing or substantially rehabilitating six or more Section 8 project-based units, the agency will: (1) advise current residents of the subject properties and representative community groups in the vicinity of the subject property by letter to resident organizations and by public meeting, of the agency's revitalization plan; and (2) certify to HUD in its Annual MTW Report that the comments from Residents and representative community groups have been considered in the revitalization plan. Documentation evidencing that the agency has met the stated requirements will be maintained at the housing authority and submitted to HUD in its Annual MTW Report.
- d. All units that receive project-based Section 8 assistance must meet either (i) existing HQS standards established by the Secretary or (ii) a local standard for communities receiving project-based Section 8 assistance developed by the Agency and approved by the Secretary pursuant to this MTW Agreement, as applicable. *This authorization waives certain provisions of Section 8(o)(8) of the 1937 Act and 24 C.F.R. 982 Subpart I as necessary to implement the Agency's Annual MTW Plan.*

## 8. Homeownership Program

- a. The Agency is authorized to establish reasonable Section 8 homeownership programs that are not limited by the existing Section 8 homeownership requirements. *This authorization waives certain provisions of Section 8(o)(15) and 8(y) of the 1937 Act and 24 C.F.R. 982.625 through 982.643 inclusive as necessary to implement the Agency's Annual MTW Plan; and*
- b. The Agency is authorized to permit current public housing residents who are on a merged waiting list to obtain a Section 8 homeownership voucher. *This authorization waives certain provisions of Sections 8(o)(15) and 8(y) of the 1937 Act and 24 C.F.R. 982.625 through 982.643 inclusive as necessary to implement the Agency's Annual MTW Plan.*

## E. Authorizations Related to Family Self Sufficiency

The Agency is authorized to operate any of its existing self-sufficiency and training programs, including its Family Self-Sufficiency (FSS) Program and any successor programs exempt from certain HUD program requirements. These may include those requirements governing program size or participation, including whether to establish escrow accounts and other rent incentives and whether to establish mandatory self-sufficiency participation requirements. If the Agency receives dedicated funding for an FSS coordinator, such funds must be used to employ a self-sufficiency coordinator. In developing and operating such programs, the Agency is authorized to establish strategic relationships and partnerships with local private and public agencies and service providers to leverage expertise and funding. However, notwithstanding the above, any funds granted pursuant to a competition must be used in accordance with the NOFA and the approved application and work plan. *This authorization waives certain provisions of Section 23 of the 1937 Act and 24 C.F.R. 984 as necessary to implement the Agency's Annual MTW Plan.*

**ATTACHMENT D****LEGACY AND COMMUNITY-SPECIFIC AUTHORIZATIONS****TO  
AMENDED AND RESTATED MOVING TO WORK AGREEMENT  
BETWEEN  
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND THE  
HOUSING AUTHORITY OF THE CITY OF SAN JOSE****A. Relationship between Housing Authorities**

The Housing Authority of the City of San Jose (HASJ) has agreed that on HASJ's behalf the Housing Authority of the County of Santa Clara (HACSC) may submit Annual MTW Plans, Annual MTW Reports and any other MTW documents relating to HASJ's MTW Agreement, and may take any actions authorized by HASJ's MTW Agreement. The actions HACSC may take under its MTW Agreement or HASJ's MTW Agreement may include, without limitation, use of any MTW Funds originally committed to HACSC or HASJ, for any purpose and in any manner authorized for either HACSC or HASJ under either MTW Agreement. Annual MTW Plans and Annual MTW Reports may be consolidated to cover the MTW activities of both HACSC and HASJ. HASJ will give HUD at least one year's notice of any revocation or material modification of this agreement with HACSC. Notwithstanding such consolidation, HACSC and HASJ shall continue to provide separate reports regarding program activities, including financial reports, to the extent required by HUD.

**B. Type and Frequency of Inspections for Voucher Program**

HASJ is authorized to deploy a risk management approach in establishing property and system inspection protocols and frequencies in lieu of the HUD requirements of annual inspections by Agencies, as long as these protocols assure that housing units assisted under the demonstration meet housing quality standards approved or established by the Secretary. *This authorization waives certain provisions of Section 8(o) of the 1937 Act and 24 C.F.R. 982 and 985 as necessary to implement the Agency's Annual MTW Plan.*

**C. Reporting on Other Families Served**

Notwithstanding anything to the contrary in Attachment B, HASJ will not report on or otherwise consider "Other families served" for purposes of measuring and determining compliance with MTW requirements regarding number of eligible low-income families and mix of family sizes to be served.

**FIRST AMENDMENT**  
**TO**  
**MOVING TO WORK AGREEMENT**  
**BETWEEN**  
**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**AND**  
**HOUSING AUTHORITY OF THE CITY OF SAN JOSE**

This First Amendment to the Moving to Work (“MTW”) Agreement (“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 City of San Jose (“Agency”) and is effective on the date of execution by HUD. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings ascribed to them in the Agreement.

Attachment A to the Agreement is amended as follows:

The following language is added to the end of paragraph C.4 of Attachment A to the MTW Agreement:

Commencing with calendar year 2010, administrative fee eligibility for each calendar year will be calculated in accordance with the appropriations requirements (including Continuing Resolutions where applicable) for that calendar year. This methodology will apply only to those vouchers for which administrative fees are not already included in a combined calculation of both housing assistance and administrative fees. In every year, fee eligibility will be pro-rated at the same level as applies to all other agencies. Administrative fees for vouchers added to the agency's inventory after the base period will be paid according to each year's appropriation requirements.

Attachment D is amended as follows:

Add the following language is added to Attachment D to the MTW Agreement:

**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.

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

HOUSING AUTHORITY OF THE CITY OF SAN JOSE

By: 

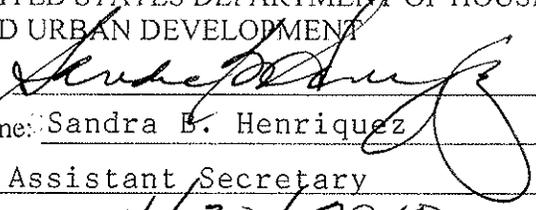
Name: Alex Sanchez

Its: Executive Director

Date: 4/23/10

04/06/2010

UNITED STATES DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT

By: 

Name: Sandra B. Henriquez

Its: Assistant Secretary

Date: 04/30/2010