

RESOLUTION NO. 16-2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ADOPTING THE REVISIONS TO THE CITY OF MESQUITE HOUSING CHOICE VOUCHER ADMINISTRATIVE PLAN; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Mesquite, Texas, has authorized participation in the Housing Choice Voucher ("HCV") program, of the U.S. Housing Act of 1937, as amended; and

WHEREAS, in accordance with 24 CFR 982.54, the City of Mesquite must adopt a written administrative plan that establishes local policies for administration of the program in accordance with U.S. Department of Housing & Urban Development ("HUD") requirements; and

WHEREAS, the administrative plan and any revisions must be adopted by the City Council of the City of Mesquite; and

WHEREAS, HUD recognizes that housing agencies have experienced a significant reduction in administrative and housing assistance payment funding; and

WHEREAS, the current Administrative Plan was last revised in February 2013 and HUD requires that the Administrative Plan be revised to comply with current regulations and requirements that have been issued by HUD in an effort to streamline operations and reduce administrative burdens; and

WHEREAS, the City of Mesquite Housing Division has determined that it would decrease administrative time and costs to adopt recommended measures in PIH Notice 2013-3 and PIH Notice 2013-4 without reducing services to families; and

WHEREAS, the City of Mesquite Housing Division is furthering the goal of de-concentrating poverty and expanding housing and economic opportunities for the residents of Mesquite by extending the operational jurisdiction to include the City of Mesquite and a twenty-five mile radius beyond the boundaries of the City of Mesquite; and

WHEREAS, the City of Mesquite Housing Division is authorized by HUD to designate a portion of available funding for project-based assistance but must develop procedures for the operation of such program as outlined in Addendum A of the HCV Administrative Plan; and

WHEREAS, the City of Mesquite Housing Division has demonstrated capability of providing low-income working families with the option of purchasing a home with assistance as outlined in Addendum B of the HCV Administrative Plan.

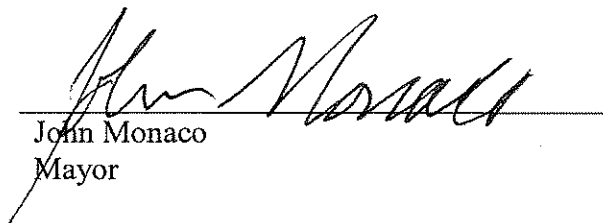
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That Addendum A, the Project-Based Voucher Program Policy, attached as Exhibit "A," is hereby adopted as part of the Administrative Plan.

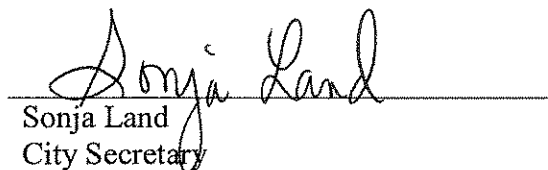
SECTION 2. That Addendum B, the Housing Choice Voucher Homeownership Program Option, attached as Exhibit "B," is hereby adopted as part of the Administrative Plan.

SECTION 3. That the effective date of the Housing Choice Voucher Administrative Plan shall be July 1, 2013.

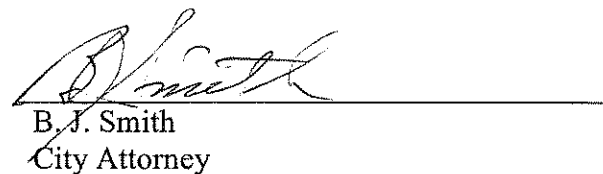
DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 17th day of June, 2013.

  
\_\_\_\_\_  
John Monaco  
Mayor

ATTEST:

  
\_\_\_\_\_  
Sonja Land  
City Secretary

APPROVED:

  
\_\_\_\_\_  
B. J. Smith  
City Attorney

**Addendum A****City of Mesquite Housing Choice Voucher Program Administrative Plan****Project-based Voucher Program Policy**

24 CFR 983

PIH Notice 2011-54

**Introduction**

The U.S. Department of Housing & Urban Development (HUD) has authorized agencies administering a Housing Choice Voucher Program (HCV) to designate a portion of their available tenant-based voucher funds for project-based rental assistance (42 U.S.C. 1473 f(o)(13)). The regulations that the City of Mesquite Housing Division may, at its option, choose to provide project-based rental assistance are listed in 24 CFR 983. In the Project-based Rental Assistance Voucher Program (PBV), the rental assistance is attached to the structure. The PBV program is funded with a portion of the Housing Division's budget authority and the Housing Division does not receive any special funding or additional vouchers for the PBV program. HUD approval is not required to operate a PBV program.

The Housing Division may use up to 20 percent of the voucher funding (budget authority) for project-based rental assistance. Except for units designated as elderly/disabled or receiving supportive services, no more than 25% of units in a building may have project-based assistance (24 CFR 983.56). The Housing Division is not required to reduce the number of PBV units selected under an Agreement or HAP contract if the amount of budget authority is subsequently reduced (24 CFR 983.6).

The Housing Division may provide project-based assistance for existing housing that does not need rehabilitation, as well as for newly constructed or rehabilitated housing.

Project-based assistance must be consistent with the Five Year and Annual PHA Plan as well as the Consolidated Plan for the City of Mesquite. The PBV program must be consistent with the statutory goals of "de-concentrating poverty and expanding housing and economic opportunities." In accordance with the Consolidated Plan and goals of the City's Comprehensive Plan, the Housing Division will seek to support the creation of walkable infill developments that contribute to sustainable urbanism; continue efforts to support the creation of new multigenerational housing developments within a variety of price ranges; and improve and preserve the city's housing stock, including housing for special needs populations.

The Housing Division will enter Housing Assistance Payment (HAP) contracts for a minimum of two (2) years and a maximum of ten (10) years for selected units with selected owners.

**Section 1: Governance of the Housing Choice Voucher Administrative Plan**

The City of Mesquite's HCV Administrative Plan, as adopted by the City Council, provides operational directives that are applicable to participants in the PBV Program. This PBV addendum should be considered a part of the HCV Administrative Plan, addressing program rules specific to the PBV program, and should not be looked upon as independent from the HCV Administrative Plan.

**Section II. Equal Opportunity Requirements**

The Housing Division will comply with all equal opportunity and nondiscrimination requirements and the Five Year and Annual Plan's certification to comply with civil rights laws and to affirmatively further fair housing as required by CFR 983.8.

The Housing Division will ensure that all PBV projects meet the program accessibility requirements of 24 CFR 983.102.

Additional policies related to equal opportunity and affirmatively furthering fair housing requirements are outlined in Chapter 1 of the HCV Administrative Plan.

**Section III. Selection of PBV Owner Proposals & Site Selection Standards**

- A. The Housing Division will request PBV owner proposals and will specify any special objectives and requirements in the Request for Proposal (RFP) that owners must complete in order to be considered responsive for consideration as a vendor. The Housing Division will use competitive selection procedures when noncompetitive selection is not applicable.
- B. The Housing Division will publish public notice of the opportunity to offer PBV proposals and will specify the submission deadlines. The Housing Division will give prompt notice of owner selection to the owner and by publishing public notice. The Housing Division will also make available for public inspection the documentation regarding the basis for selection of a PBV proposal. (24 CFR 983.51)
- C. The Housing Division will not select proposals that include ineligible units, such as subsidized housing. (24 CFR 983.53, 54)
- D. The Housing Division will not enter an agreement or HAP contract until HUD or an independent entity approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements (24 CFR 983.55). The subsidy layering requirement is required for new construction and rehabilitation only and can be conducted by either the Texas Department of Housing & Community Affairs or HUD.
- E. The Housing Division will not enter an agreement or HAP contract unless the site selection requirements in 24 CFR 983.57 are met.
- F. Activities under the PBV program are subject to HUD environmental regulations and require an environmental review for all PBV units, including existing units. An environmental review will be conducted by the City of Mesquite, which is the local unit of government on behalf of the

Housing Division (24 CFR 983.56). An environmental review must be conducted prior to execution of any agreement for rehabilitated or new units or HAP contract for existing units.

**Section III. Requirements for Newly Constructed and Rehabilitated Units (24 CFR 983 Subpart D)**

- A. The Housing Division will enter an Agreement with the owner who has agreed to develop the contract units in compliance with Housing Quality Standards (HQS). The Agreement, or AHAP, will provide a description of the housing to be developed, including site, location of units on site, number of contract units by bedroom size, services to be supplied by owner, utilities, estimated initial rents, and description of work under the AHAP.
- B. The AHAP is executed after notice of proposal selection to the owner, the subsidy layering review, and the environmental review have been completed and approved.
- C. The owner must perform the development work in accordance with 24 CFR 983.154, including disclosing any conflicts of interest and certifying that the owner and other project principals are not excluded from federal procurement and nonfederal procurement programs.
- D. The Agreement must specify the deadlines for completion of the housing units and submit the required evidence of completion in accordance with 24 CFR 983.155.
- E. The Housing Division will determine compliance with HQS and review the required evidence of completion. The Housing Division will execute a HAP contract when all conditions of the AHAP have been met.

**Section IV. Housing Assistance Payments Contract (24 CFR 983 Subpart E)**

The Housing Division will enter a HAP contract with the owner in order to provide housing assistance payments for eligible families. Housing assistance will only be paid for contract units leased and occupied by eligible families during the HAP contract term.

- A. The HAP contract must specify the number of units by number of bedrooms.
- B. The HAP contract must identify the specific contract units in each building(s).
- C. The Housing Division may amend the HAP contract to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract.
- D. The Housing Division may renew the HAP contract subject to available funds.

**Section V. Selection, Occupancy, Termination**

- A. The Housing Division will determine eligibility of families for selection into the PBV program in accordance with policies outlined in Chapter 2 of the HCV Administrative Plan. The Housing Division will not screen applicants for family behavior or suitability for tenancy. The Owner is responsible for screening of families on the basis of their tenant history.
- B. The Owner is responsible for adopting a written tenant selection procedure that is consistent with the purpose of improving housing opportunities for very low income families. The Tenant selection procedure should be reasonably related to program eligibility and an applicant's ability to perform the lease obligations. (24 CFR 983.253)

- C. In order to minimize displacement of a family that is eligible in a proposed contract unit on the proposal selection date, the Housing Division will place the family on the HCV waiting list. Once the eligibility of the family is established, the family will be given an absolute selection preference. The in-place families will be given priority admission to the PBV program and are not subject to income targeting requirements.
- D. The Housing Division will not use a separate waiting list for the PBV program and will select families for participation from the existing tenant-based waiting list. A family that refuses an offer of PBV assistance will not have any impact to the family's position on the tenant-based waiting list.
- E. The tenant and the owner must enter a written lease agreement. The lease must include the HUD required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.
- F. The owner may collect a security deposit from the tenant as described in Chapter 7 of the HCV Administrative Plan. The Housing Division has no liability or responsibility for payment of any amount owed by the family to the owner.
- G. The Housing Division may offer continued assistance in another unit when the family is occupying a wrong size unit or unit with accessibility features that the family does not require and is needed by a family that requires the accessibility feature. In both of these cases, the Housing Division will offer the family the opportunity to continue receiving housing assistance in another unit or, if available, a tenant-based voucher. If a family refuses the offer of continued assistance, the Housing Division will notify the owner and the family that the housing assistance payments will be terminated within a reasonable period but no more than 90 days from the date the offer for continued assistance was made.
- H. The family may choose to terminate the assisted lease after the first year of occupancy. The family must give the owner a written notice to vacate in accordance with the lease. If the family is in good standing and eligible for a move with continued assistance as described in Chapter 10 of the HCV Administrative Plan, the Housing Division will offer them a tenant-based voucher, if funding is available. If funding is not available, the Housing Division will offer them the next available opportunity for continued tenant-based rental assistance.
- I. If the Housing Division terminates the HAP contract for any reason that is not the fault of the family, the family will be offered continued tenant-based assistance.
- J. If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity to move with continued tenant-based assistance.
- K. The rules governing other terminations of assistance and tenancy are found in Chapter 11 of the HCV Administrative Plan. PBV program applicants and participants are also eligible for informal reviews and informal hearings as outlined in Chapter 12 of the HCV Administrative Plan.

#### **Section VI. Rent to Owners and Payments**

The amounts of the initial and re-determined rents are determined in accordance with 24 CFR 983.301 and 302. The Housing Division and owner will establish the initial rent at the beginning of the HAP contract term. The Agreement states the estimated rent amount only. The Housing Division will re-

determine rents if it is requested by the owner or where there is a decrease of five percent (5%) or greater in the published Fair Market Rents. The owner may only request any increases in rent at the annual anniversary of the HAP contract. In all cases, the rent must be determined rent reasonable as outlined in Chapter 7 of the HCV Administrative Plan and must be HQS compliant as outlined in Chapter 8 of the HCV Administrative Plan.

The Housing Division will not make vacancy payments to the owner.

**Addendum B****City of Mesquite Housing Choice Voucher Program Administrative Plan*****Housing Choice Voucher Homeownership Program Option*****24 CFR 982.625 through 982.643****I. INTRODUCTION**

The City of Mesquite's Consolidated Plan identifies several strategies to meet the housing needs of the Mesquite community. Preserving and improving the housing stock and creating new opportunities for all types of people to reside in Mesquite are two of the strategies and goals identified. The HCV Homeownership Option is used to assist a family residing in a home purchased and owned by one or more members of the family. The Homeownership Program option offers monthly assistance payments that contribute to the family's mortgage payment. The City of Mesquite Housing Division has the capacity to operate a successful HCV homeownership program as defined by regulations.

As authorized by the Housing Voucher Homeownership Final Rule published in the Federal Register on September 12, 2000, and the subsequent Department of Housing and Urban Development (HUD) changes to the program, the Housing Division will offer a Homeownership Program option to a limited number of eligible HCV families. Interested HCV families must submit an application for the Homeownership Program option and the Housing Division will determine eligibility in accordance with the Housing Division Homeownership Program option policy and ability of the family to qualify for a home mortgage.

The program will be limited to a maximum of 10 housing vouchers.

**II. FAMILY REQUIREMENTS:**

A. The family must be a current HCV participant for a minimum of one year. New Admission applicants will not be eligible for the Homeownership program option.

B. The family must complete an application for participation.

C. The family must meet program eligibility requirements, including the following:

(1) The family must have an annual minimum household income of **\$16,000**, excluding any welfare assistance the family may be receiving. If the family does not meet the Housing Division minimum-income standard but does meet the minimum income required by HUD, the family may be processed for pre-counseling and subsequent eligibility determination. The family must demonstrate it has been pre-qualified or pre-approved for financing that meets Housing Division requirements and that financing amount is sufficient to purchase a home that meets HQS in the Housing Division jurisdiction. *The family must meet the minimum income required by HUD which is not less than the federal minimum wage multiplied by 2000 hours (24 CFR 982.627).*

(2) The head of household or co-head of household must be currently employed on a fulltime basis (not less than an average of 30 hour per week as defined by HUD) and have been continuously so employed during the year before commencement of homeownership assistance for the family. Continuously employed includes employment with no more than a 60-day break between employment periods.



(3) Families designated as an Elderly/Disabled Family may include Welfare assistance to meet the minimum household income requirement. The employment requirement and the \$16,000 minimum income requirement do not apply to these families. *HUD requires that disabled families must meet a minimum income not less than the monthly Social Security Income (SSI) benefit multiplied by twelve months (24 CFR 982.627).*

(4) Family must be a first-time homebuyer as defined by HUD.

(5) Family may not have defaulted under any previous homeownership loan.

D. The family must complete a pre-assistance and housing counseling program approved by the Housing Division.

E. The family must provide a minimum equity in the home by providing a minimum down payment of 3% of the sales price; at least 1% of the 3% down payment must come from the personal resources of the family.

1. FSS families will not be allowed to use the escrow savings account as part of their personal resources.
2. Families must demonstrate that they have maintained a minimum annual average of \$500.00 in a personal savings account and have made consistent deposits to the account for a period of six months prior to closing.
3. The family can use any combination of eligible down payment assistance program, gifts, and other sources for the total down payment.

F. The Housing Division will make Housing Assistance Payments in the manner prescribed by the lender, either directly to family, directly to lender, or deposited into a financial institution where payments will be drafted by lender.

(1) If required by the lender, the family must agree to set up a bank account solely for the purpose of depositing the assistance check and the tenant payment from the family. The family must deposit their portion of the mortgage payment in the account on the 1st of each month. The Mortgager must agree to debit the account each month for the mortgage payment, with the date of debit to be established by family's mortgager. The Housing Division will deposit their portion of the mortgage payment in the account prior to the 5th of each month.

G. The family is required to complete all requirements for annual re-certifications and submit all changes in income to Housing Division within 30 days of the change.

H. The family must locate a unit within the required maximum period of 120 days. The sale must be completed within the maximum period of 180 days. If the homeownership voucher has not been utilized within the allowed time frame and any extensions, the family will be permitted to remain on the HCV tenant based rental assistance program, provided they meet all the eligibility requirements for continued assistance under that program.

I. The Housing Division reserves the right to deny participation in the Homeownership Program to any family due to lack of funds provided by HUD to cover the per unit cost of the families mortgage payment.

J. The family's portion of the initial mortgage payment (principal, interest, insurance and taxes) may not be greater than 40% of family's net adjusted household income.

### III. PRE-ASSISTANCE/HOMEOWNERSHIP COUNSELING

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling programs required by Housing Division (pre-assistance counseling).

Required pre-assistance counseling program topics include, but are not limited to:

- (1) Credit counseling;
- (2) How to find a home, including information about homeownership, opportunities, schools, and transportation in the City of Mesquite;
- (3) The advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- (4) Information on fair housing, including fair housing lending and local fair housing enforcement agencies;
- (5) How to negotiate the purchase of a home;
- (6) Information about the Real Estate Settlement Procedures Act (RESPA) (12U.S.C. 2601 et seq.), State and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions;
- (7) How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- (8) Home maintenance (including care of the grounds);
- (9) Budgeting and money management; and
- (10) Other information the Housing Division or the counseling agency deems appropriate.

The Housing Division may adapt the subjects covered in pre-assistance counseling (as listed above) to local circumstances and the needs of individual families. The Housing Division may also require additional counseling after commencement of homeownership assistance (on-going counseling).

The Housing Division may use a HUD-approved housing counseling agency to provide the counseling for families participating in the homeownership option. If the Housing Division is not using a HUD approved housing counseling agency to provide the counseling for families participating in the homeownership option, the Housing Division will ensure that its counseling program is consistent with the homeownership counseling provided under HUD's Housing Counseling program.

#### **IV. HOMEOWNERSHIP VOUCHER ISSUANCE**

- A. Voucher subsidy size is consistent with the subsidy standards as outlined in Chapter 4 of the HCV Administrative Plan.
- B. Approved applicants to the HCV Homeownership Option program will be given a "homeownership" voucher, which will permit them to locate a home they wish to purchase. The family will be given 120 days to locate a unit.
- C. Voucher may be extended an additional 60 days for completion of the sale.
- D. Voucher may not be extended beyond 180 days from date of issuance. Only one voucher will be issued during each calendar year. If family is not able to complete the sale, the family can remain on the tenant based program until eligible for a homeownership voucher.

E. Upon the issuance of a "homeownership" voucher, the Housing Division will complete an interim recertification for the family to determine if income and family composition changes have occurred.

F. In the event of an increase in household income during the period between the issuance of the "homeownership" voucher and its expiration date, the adjustment will be made at the next annual recertification. In the event of a decrease in household income during the period between issuance of the voucher and its expiration date, the adjustment will be made the month following the date it was reported.

G. The family will be required to give appropriate notice (no less than 30 days) to current landlord and must be in good standing with current landlord and the housing division prior to closing.

#### **V. SELLER REQUIREMENTS**

A. The Housing Division may not commence homeownership assistance for occupancy of a home if the Housing Division has been informed (by HUD or otherwise) that the seller of the home is debarred, suspended, or subject to a limited denial of participation.

B. Lease-Purchase agreements are not acceptable.

C. The Housing Division has the right to accept or reject any property owner it deems inappropriate for the homeownership program to include, but not limited to, those identified under A; and those who have been consistently in noncompliance as a property owner under the Tenant-Based Assistance program.

#### **VI. PROPERTY REQUIREMENTS**

A. Initial requirements applicable to the property unit include the following determinations by the Housing Division:

(1) The property unit is an eligible unit under HUD regulation (24CFR 982.352), with any exceptions permitted by HUD.

(2) The Housing Division has elected to limit the Homeownership Program to only single-family dwelling units.

(3) Property may include properties owned by the City of Mesquite purchased under other grant programs.

(4) The family may enter into contract of sale for units not yet under construction at the time the family enters into the contract for sale. The Housing Division must not commence homeownership assistance until appropriate environmental reviews are completed and construction is completed.

(5) The family must have the right to refuse a property under construction if it does not meet the quality and finished home requirements expected by the purchaser.

(6) The unit must be inspected by a Housing Division inspector AND by an independent inspector selected and paid for by the family under HUD regulation. (See 982.631)

(7) The unit must satisfy the minimum Housing Quality Standard (HQS) requirement under HUD regulations (See 982.401 and 982.632, Chapter 8 of the HCV Administrative Plan) and City Code requirements.

#### **VII. INSPECTIONS**

HQS Inspection by the Housing Division

A. The Housing Division may not commence homeownership assistance for a family until the Housing Division or other authorized agency has inspected the unit and has determined that the unit passes HQS as outlined in Chapter 8 of the HCV Administrative Plan. The HQS inspection is to occur a minimum of two weeks prior to proposed date of closing. Any failed or incomplete items must be cured, the property re-inspected with a passed status prior to closing.

Independent Inspection

B. The unit must also be inspected by an independent Texas Real Estate Commission (TREC) licensed professional home inspector, selected and paid by the family. This inspection should occur shortly after the signing of a contract of sale.

(1) The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

(2) The independent inspector shall not be a Housing Division employee or contractor, other person under control of the Housing Division, or one selected by the Housing Division. The independent inspector may not have a relationship with the seller. The inspector must have a current TREC license for home inspections.

(3) The independent inspector must provide a copy of the inspection report both to the family and to the Housing Division. The Housing Division may not commence homeownership assistance for the family until the Housing Division has reviewed the inspection report of the independent inspector. Even if the unit otherwise complies with the HQS (and may qualify for assistance under the housing agency's tenant-based rental voucher program), the Housing Division shall have discretion to disapprove the unit for assistance under the homeownership option because of information in the inspection report.

VIII. CONTRACT OF SALEInitiation of Contract

A. Before commencement of homeownership assistance, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the Housing Division a copy of the contract of sale (see also HUD regulation 982.627(a)(7)).

Contents

The contract of sale must:

- (1) Specify the price and other terms of sale by the seller to the purchaser;
- (2) Provide that purchaser has the right of refusal for any home purchased under construction once property has been built.
- (3) Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected and paid by the purchaser.
- (4) Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- (5) Provide that the purchaser is not obligated to pay for any necessary repairs; and,
- (6) Contain a certification from the seller that the seller has not been debarred, suspended, or subjected to a limited denial of participation under this section.

**IX. HOME FINANCING**

- A. The Housing Division prefers financing for the purchase of the home by a qualified financial institution in the mortgage-financing business and seller financing will not be approved.
- B. Balloon payment mortgages are not acceptable.
- C. Down payment required on the home will be a minimum of 3% of the approved sale price (with 1% coming from personal resources).
- D. The family must establish a minimum equity in the home by providing a minimum of 1% of the sales price from their personal resources toward the down payment.
- E. All mortgages are subject to mortgage insurance requirements.
- F. Equity in the home may not be utilized as security for any "equity-secured" loan without pre-approval by the Housing Division.
- G. The Housing Division will review lender qualifications and loan terms prior to authorizing homeownership assistance. Homeownership assistance will be denied by the Housing Division if it is determined that proposed financing, refinancing, or other debt to be unaffordable or if lender or loan terms do not meet Housing Division qualifications. In making this determination, the Housing Division will consider other family expenses such as childcare, unreimbursed medical expenses, homeownership expenses, and other such family expenses it deems appropriate.
- H. The Housing Division may not require families to acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

**X. FAMILY OBLIGATIONS**

- A. The family must comply with the following obligations:
- (1) Ongoing counseling - The family must attend and complete ongoing homeownership and housing counseling required by Housing Division. **The Housing Division will require an annual minimum of 8 hours of post purchase homeownership counseling.**
  - (2) Compliance with mortgage - The family must comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt).
  - (3) Personal Savings Fund – The family must maintain a minimum annual average of \$500.00 in a personal savings account which can be used for emergency home expenses or other home maintenance needs. Family must demonstrate consistent deposits into the account.
- B. Prohibition against conveyance or transfer of home.
- (1) As long as the family is receiving homeownership assistance, use and occupancy of the home is subject to:
    - a. The family must use the assisted unit for residence by the family. The unit must be the family's only residence;
    - b. The composition of the assisted family residing in the unit must be approved by the Housing Division. The family must promptly inform the Housing Division of the birth, adoption, or court-awarded custody of a child.

The family must request Housing Division approval to add any other family member as an occupant of the unit. No other person (i.e. no one but members of the assisted

family) may reside in the unit (except for a foster child or live-in aide as provided under HUD regulations. See 3(a)(iv) of this section).

c. The family must promptly notify the Housing Division if any family member no longer resides in the unit.

d. If the Housing Division has given approval, a foster child or live-in aide may reside in the unit. The Housing Division has the discretion to adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining when the Housing Division consent may be given or denied. Policy is defined in Chapter 2 of the HCV Administrative Plan.

e. Members of the household may engage in legal profit making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family and are in compliance with City zoning ordinances.

f. The family must not sublease or let the unit.

g. The family must not transfer the unit.

(2) The family must supply any information or certification requested by the Housing Division to verify that the family is living in the unit, or relating to family absence from the unit, including any Housing Division requested information or certification on the purposes of family absences. The family must cooperate with the Housing Division for this purpose. The family must promptly notify the Housing Division of absences from the unit for more than thirty (30) days.

(3) The family may grant a mortgage on the home for debt incurred to finance the purchase of the home or any refinancing of such debt.

(4) Upon death of a family member who holds, in whole or in part, title to the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with HUD regulations.

#### **XI. SUPPLYING REQUIRED INFORMATION**

A. The family must supply required information to Housing Division in accordance with HUD regulation (982.551(b)).

B. In addition to other required information, the family must supply any information as required by Housing Division or HUD concerning:

(1) Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), and information on any satisfaction or payment of the mortgage debt;

(2) Any sale or other transfer of any interest in the home; or

(3) The family's homeownership expenses.

(4) Notice of move-out - The family must notify the Housing Division, by written notice, a minimum of 60 days before the family moves out of the home.

(5) Notice of mortgage default - The family must notify the Housing Division if the family defaults on a mortgage securing any debt incurred to purchase the home.

(6) Prohibition on ownership interest on second residence - During the time the family receives homeownership assistance under the Housing Division homeownership program, no family member may have any ownership interest in any other residential property.

C. Additional Housing Division requirements - The Housing Division may establish additional requirements for continuation of homeownership assistance for the family. The Housing Division requires the family to attend the post-purchase homeownership counseling and the family agrees to periodic unit inspections while the family is receiving homeownership assistance.

D. Other family obligations - The family must comply with the obligations of a participant family described in HUD regulation (24CFR 982.551). However, the following provisions do not apply to assistance under the homeownership option: HUD regulations 982.551(c), (d), (e), (f), (g), and 0).

**XII. HOMEOWNERSHIP ASSISTANCE**

A. Statement of Homeownership Obligations - Before commencement of homeownership assistance the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.

B. Occupancy of Home - Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the Housing Division may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the Housing Division the homeownership assistance for the month when the family moves out.

**XIII. TERMS OF ASSISTANCE**

A. Maximum Term of Assistance - Except in the case of a family that qualifies as an elderly or disabled family in accordance with Section XI(C), the family members described in paragraph (B) shall not receive homeownership assistance for more than:

- (1) Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer;
- (2) Ten years, in all other cases.

Lender mortgage must include provision they are to notify Housing Division of any transfer of mortgage a minimum of ten (10) days prior to the first of the month to effect a change for the following month. Transfer of the mortgage must include provision that new lender will accept debit payment system under IIF.

B. Applicability of Maximum Term. The maximum term described in paragraph (A) of this section applies to any member of the family who:

- (1) Has an ownership interest in the unit during the time that homeownership payments are made;
- (2) Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made; or

C. Exception for Elderly and Disabled Families:

- (1) As noted in paragraph (A) of this section, the maximum term of assistance does not apply to elderly and disabled families.
- (2) In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.
- (3) If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least six (6) months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance in accordance with this section).

D. Assistance for Different Homes or housing agency's:

If the family has received such assistance for different homes, or from different housing agencies, the total of such assistance terms is subject to the maximum term described in paragraph (A) of this section.

**XIV. HOMEOWNERSHIP EXPENSES**

A. Determination of Homeownership Expenses: In accordance with HUD requirements, the Housing Division has adopted the following policy for determining the amount of homeownership expenses to be allowed:

- (1) Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- (2) Real estate taxes and public assessments on the home;
- (3) Home insurance;
- (4) The Housing Division allowance for maintenance and major repair and replacement expenses in the amount of \$50.00 monthly.
- (5) The Housing Division utility allowance for the bedroom size of the home in accordance with the HCV Administrative Plan; and
- (6) Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home.

If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, provided the Housing Division determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.

B. Payment to Lender or Family: The Housing Division will make homeownership assistance payments directly to the lender in one of the following manners as required by the lender.

- (1) By depositing the said amount in a designated bank account set up for the sole purpose of accommodating the mortgage payment. Purchaser deposits the tenant payment to said account. The mortgager will then debit the account each month for the mortgage payment.
- (2) Make payments directly to the family.
- (3) Make payments directly to the lender.

C. Monthly Mortgage Payment Verification Requirement: Homeownership participants receiving monthly HAP assistance must verify quarterly mortgage payments were submitted to the mortgage servicer.

- (1) A mortgage payment statement from the mortgage servicer must be submitted quarterly by the family as specified by Housing Division by the fifteenth of the following months: March, June, September and December.
- (2) Mortgage statement documentation must be an official document provided by the mortgage servicer.

Mortgage payments paid late (after the 15th of the month): Documentation of three mortgage payments paid late within a 12-month period will result in termination from the HCV program.

Mortgage payment not paid: Documentation of one mortgage payment not paid (missed payment) by the family will result in termination from the HCV program.

**XV. HOMEOWNERSHIP ASSISTANCE PAYMENT**

A. Amount of Monthly Homeownership Assistance Payment: While the family is residing in the home, the Housing Division shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the lower of;

- (1) The payment standard minus the total tenant payment; or
- (2) The family's monthly homeownership expenses minus the total tenant payment.



**B. The payment standard for Family**

(1) The payment standard for a family is the lower of:

- a. The payment standard for the family assigned subsidy size;
- or
- b. The payment standard for the size of the home.

If the home is located in an exception payment standard area, Housing Division will use the appropriate payment standard for the exception payment standard area.

(2) The payment standard for a family is the greater of:

- a. The payment standard (as determined in accordance with paragraphs XIII (B)(1) and (B)(2) of this section) at the commencement of homeownership assistance for occupancy of the home; or
- b. The payment standard (as determined in accordance with paragraphs XIII (B)(1) and (B)(2) of this section) at the most recent homeownership assistance for occupancy of the home.

For the homeownership option, Housing Division will use the same payment standard schedule and subsidy standards, as defined under HUD regulations (982.402 and 982.503) and the HCV Housing Voucher Administrative Plan, as for the Tenant Based Rental Assistance Voucher Program.

**XVI. TERMINATIONS**

**A. Automatic Termination of Homeownership Assistance:** Homeownership assistance for a family terminates automatically 180 calendar days after the last housing assistance payment on behalf of the family. However, the Housing Division has the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

**B. Failure to Comply With Family Obligations.** The Housing Division may deny or terminate assistance for violation of participant obligations described in HUD regulations (982.552 or 982.633) or Housing Division policies.

**C. Mortgage default -** The Housing Division must terminate Voucher Homeownership Assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA-insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt. The Housing Division, in its discretion, may permit the family to move to a new unit with continued voucher rental assistance. However, the Housing Division must deny such permission, if:

- a. The family defaults on an FHA-insured mortgage; and
- b. The family fails to demonstrate that:
  - i. The family has conveyed title to the home; as required by HUD, to HUD or HUD's designee; and
  - ii. The family has moved from the home within the period established or approved by HUD.

**C. Late payment of three mortgage payments in a 12-month period or nonpayment of one mortgage payment may result in termination from the Housing Choice Voucher Program.**

**D. Fraud or intent to deceive Housing Division by omission with regard to any and all income, asset and family composition information.** Regulations under voucher rental assistance program apply as outlined in the HCV Administrative Plan.

**XVII. PORTABILITY**

**A. Portability of Homeownership Assistance:** A family determined eligible for homeownership assistance by the initial housing agency may purchase a unit outside of the initial housing agency's jurisdiction, if the receiving

housing agency is administering a voucher homeownership program and is accepting new homeownership families.

B. **Applicability of Housing Choice Voucher Program Portability Procedures.** In general, the portability procedures described under HUD regulations (982.353 and 982.355) apply to the homeownership option and the administrative responsibilities of the initial and receiving housing agency are not altered except that some administrative functions (e.g. issuance of a voucher or execution of a tenancy addendum) do not apply to the homeownership option.

C. **Family and Housing Division Responsibilities:** The family must attend the briefing and counseling sessions required by the Housing Division. The receiving housing agency will determine whether the financing for, and the physical condition of, the unit are acceptable. The receiving housing agency must promptly notify the initial housing agency if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the housing agency.

D. **Continued Assistance.** Continued assistance under portability procedures is subject to HUD regulation (982.637).

#### XVIII. MOVES

Move to New Unit with continued assistance are outlined in chapter 10 of the HCV Administrative Plan.

A. A family receiving homeownership assistance may move to a new unit with continued tenant-based assistance. The family may move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements).

B. The Housing Division may not commence continued tenant-based assistance for occupancy of the new unit so long as any family member owns any title or other interest in the prior home.

C. The Housing Division has elected to restrict such moves to one move by the family during any one-year period.

D. The Housing Division must approve all moves prior to the actual move by the family.

#### XIX. CONTINUATION OF HOMEOWNERSHIP ASSISTANCE

A. **Requirements for Continuation of Homeownership Assistance.** The Housing Division must determine that all initial requirements required by HUD regulation (982.626) have been satisfied if a family that has received homeownership assistance wants to move to a new unit with continued homeownership assistance. However, the following requirements do not apply:

- (1) The requirement for pre-assistance counseling is not applicable, however, the Housing Division will require the family complete additional counseling before and possibly after moving to a new unit with continued assistance under the homeownership option;
- (2) The requirement that a family must be a first-time homeowner is not applicable.

B. The Housing Division may deny permission to move to a new unit with continued voucher assistance as follows:

- (1) **Lack of funding to provide continued assistance** - The Housing Division may deny permission to move with continued rental or homeownership assistance if the Housing Division determines that it does not have sufficient funding to provide continued assistance.
- (2) **Termination or denial of assistance** - At any time, the Housing Division may deny permission to move with continued rental or homeownership assistance in accordance with HUD regulation (982.638).
- (3) **General** - The Housing Division shall terminate homeownership assistance for the family, and shall deny voucher rental assistance in accordance with the HCV Administrative Plan.

(4) Denial or termination of assistance under basic voucher program – At any time, the Housing Division may deny or terminate homeownership assistance in accordance with HUD regulations (982.552 Grounds for Denial or Termination of Assistance or 982.553 Crime by Family Members).

**XX. HOUSING VOUCHER PROVISIONS THAT DO NOT APPLY**

A. General. The following types of provisions (located in other subparts of HUD regulations) do not apply to assistance under the homeownership option:

- (1) Any provisions concerning the Housing Voucher owner or the HAP contract between the housing agency and owner;
- (2) Any provisions concerning the assisted tenancy or the lease between the family and the owner;
- (3) Any provisions concerning housing agency approval of the assisted tenancy;
- (4) Any provisions concerning rent to owner or reasonable rent; and
- (5) Any provisions concerning the issuance or term of voucher.

B. Subpart G requirements. The following provisions of subpart G of HUD regulations do not apply to assistance under the homeownership option:

- (1) Section 982.302 (Issuance of voucher: Requesting housing agency approval of assisted tenancy);
- (2) Section 982.303 (Term of voucher);
- (3) Section 982.305 (housing agency approval of assisted tenancy);
- (4) Section 982.306 (housing agency disapproval of owner);
- (5) Section 982.307 (Tenant screening);
- (6) Section 982.308 (Lease and tenancy);
- (7) Section 982.309 (Term of assisted tenancy);
- (8) Section 983.310 (Owner termination of tenancy);
- (9) Section 982.311 (When assistance is paid) (except that 982.311 (c)(3) is applicable to assistance under the homeownership option);
- (10) Section 982.313 (Security deposit: Amounts owed by tenant); and
- (11) Section 982.314 (Move with continued tenant-based assistance).

C. Subpart H requirements. The following provisions of subpart H HUD regulations do not apply to assistance under the homeownership option:

- (1) Section 982.352(a)(6) (Prohibition of owner-occupied assisted unit);
- (2) Section 982.352(b) (housing agency-owned housing); and
- (3) Those provisions of 982.353(b)(1), (2), and (3) (Where family can lease a unit with tenant-based assistance) and 982.355 (Portability: Administration by receiving housing agency) that are inapplicable per 982.636.

D. Subpart I requirements. The following provisions of subpart I of HUD regulations do not apply to assistance under the homeownership option:

- (1) Section 982.403 (Terminating HAP contract when unit is too small);
- (2) Section 982.404 (Maintenance: Owner and family responsibility: housing agency remedies); and
- (3) Section 982.405 (housing agency initial and periodic unit inspection).

E. Subpart J requirements. HUD requirements under subpart J (Housing Assistance Payments Contract and Owner Responsibility) (982.451-456) do not apply to assistance under the homeownership option.

F. Subpart K requirements. Except for those sections listed below, HUD regulations under subpart K (Rent and Housing Assistance Payment 982.501-521) do not apply to assistance under the homeownership option:

- (1) Section 982.503 (Voucher tenancy: Payment standard amount and schedule);
- (2) Section 982.516 (Family income and composition: Regular and interim re-certifications); and
- (3) Section 982.517 (Utility allowance schedule).

G. Subpart L requirements. The following provision of subpart L under HUD regulations do not apply to assistance under the homeownership option:

- (1) Section 982.551 (c) (HQS breach caused by family);
- (2) Section 982.551(d) (Allowing housing agency inspection);
- (3) Section 982.551(e) (Violation of lease);
- (4) Section 982.551(g) (Owner eviction notice); and
- (5) Section 982.551(j) (Interest in unit).

H. Subpart M requirements. The following provisions of subpart M of HUD regulations do not apply to assistance under the homeownership option:

- (1) Sections 982.601-982.619
- (2) Sections 982.622-982.624